

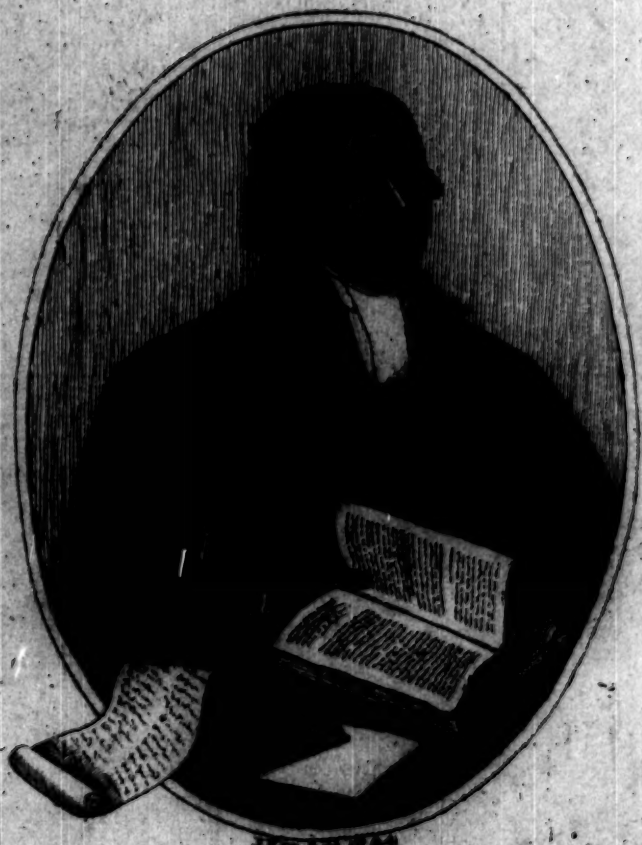


1840

CITIZEN SKIRVING

Secretary to the British Convention

A Tried Patriot and an Honest Man.



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THE
T R I A L
O F
WILLIAM SKIRVING,
SECRETARY TO THE
BRITISH CONVENTION,
BEFORE THE
HIGH COURT OF JUSTICIARY,
On the 6th and 7th of January, 1794;
FOR
S E D I T I O N,

Containing a full and circumstantial account of all the PROCEEDINGS and SPEECHES, as taken down in SHORT-HAND, by Mr. RAMSET, Short-Hand Writer, from LONDON.

EDINBURGH PRINTED,

And SOLD for WILLIAM SKIRVING, by JAMES ROBERTSON, Printer and Bookfeller, No. 4, Horse Wynd, *Edinburgh*.—JAMES RIDGWAY, York Street, St. James'; H. D. SYMONDS, No. 20, Paternoster Row; W. RAMSEY, No. 37, Bell Yard, Temple Bar; and J. MARSON, No. 187, High Holborn, *London*.

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ADDRESS TO THE PUBLIC.

Fellow Countrymen,—

FOR I may not call you *Fellow Citizens*. The following trial, you will see, is founded upon an indictment of so general a nature, as rendered it impossible to provide an adequate defence against the unlimited range which it afforded the public Prosecutor, and of which he took advantage in an unfair manner. He indicted me as an individual; but, he carried on the prosecution against me as Secretary to the British Convention; and, at the same time, deprived me of the use of some hundreds of papers, out of which he selected what he thought proper, without previous intimation. Neither could I be prepared for such an attack, for I never dreamed it was possible to found any criminal action against me. I had often had threats, but treated them as the productions of timidity or cunning, as I could not suppose, that persons who knew me well, could ever entertain the hope of accomplishing, what they, however, have at length accomplished. It was moreover, impossible to occupy in preparing for the trial, even the short time of two weeks allowed, the greater part of that time being necessarily taken up by the duties of my office, and my attention farther distracted by private concerns, which, in such circumstances, avarice did not fail to attempt to embarrass more than was necessary. Under these circumstances, it is hoped, that the public, in reading this extraordinary trial, will make proportionable allowances; and, as none of the papers have yet been returned, the Reader will also excuse some blanks, which, for this reason I have not been able to fill up, but which, when in my power, will be given, as referred to, in an APPENDIX.

Those who regard interest more than duty, will blame me for thus exposing myself and my family, to that world which has hitherto been a step-dame. The bigotted will consider me a deluded man like themselves: But, if what I stated before the Lord Provost and Council of this city, shall be found verified, I will then be awfully justified.—Upon leaving the hall, after

my first examination before the Council, I made the following declaration, as nearly as I can recollect :

" My lord, a long time ago, I perceived that the public mind in this country, as every where else, was in a remarkable state of irritation. I sought to direct this irritation into some channel which might moderate and regulate it. I urged, to the utmost of my influence, the association of the people, anxious to subject the public irritation, to the controul of delegates, chosen by the people themselves, because of their greater wisdom and prudence. If the magistrates of Edinburgh shall prevail to break up these meetings, which now, for a long time, have shown themselves to be orderly and peaceable, and shall prevent the public discontent from flowing in the moderating channel which the meeting, by delegates, has proved, and shall thereby again pent up the irritation, till it break forth in the natural way of tumult, you will certainly bring upon this place the evils you would prevent."

The poor deluded people, as they were frequently termed, in the course of my trial, have had recourse already to natural meetings, being deprived of their central direction.—They will not now give up this tasting of liberty injudiciously granted them. If they shall not wait as patiently for release, as the Friends of the People have done, I take this, probably the last opportunity, of solemnly protesting before God and the world, that they, as well as I myself, are innocent, and cannot be chargeable with the consequences.

Having already made my appeal, my earnest desire is, that you may now see, that the union which I have been seeking among the people, was that which alone could moderate the evils which are coming upon the world, and counteract their nature and destructive consequences.

E R R A T A.

Page 123, between lines twelve and thirteen, from the bottom the reader is desired to insert the following, which was omitted.

" Then comes the part of this band-bill, narrated in this indictment."

What follows in the remaining part of it which is also left out of the indictment.

THE
T R I A L
OF
WILLIAM SKIRVING.

THE Members of the Court of Justiciary assembled precisely at ten o'clock in the forenoon. Mr. Skirving appeared, and placed himself at the bar.

His Majesty's Advocate, for his Majesty's interest, was then, in the usual form, called against the Pannel. Mr. Skirving was desired by the Lord Justice Clerk, to listen to the Indictment against him, which was to be read immediately by the Clerk of the Court. Of that Indictment the following is a true copy.

"GEORGE, by the Grace of God, King of Great Britain, France, and Ireland, Defender of the Faith, To Macers of our Court of Justiciary, Messengers at Arms, Our Sheriffs, in that part conjunctly and severally, specially constitute, GREETING. Whereas, it is humbly meant and complained to us, by Our RIGHT TRUSTY ROBERT DUNDAS, Esq; of Arniston, Our Advocate for Our Interest; Upon WILLIAM SKIRVING, Tenant or lately Tenant in Damhead, now designing himself of Strathruddie, and presently residing in Edinburgh. WHEREAS, by the laws of this, and every other well governed realm, SEDITION is a crime of an heinous nature, and severely punishable. YET TRUE IT IS and of VERITY, That the said William Skirving above complained upon, is guilty actor, or art and part thereof. IN SO FAR AS, sometime during the months of June, July, or August

one thousand seven hundred and ninety-three, a seditious or inflammatory Writing, calculated to excite the people to acts of outrage and violence, by insidiously calumniating and misrepresenting the measures of Government, and seditiously justifying the enemies of our country, with whom we are at open war ; having been at Dundee, or elsewhere to the Public Prosecutor unknown, composed or written by Thomas Fysche Palmer, Clergyman, formerly residing in Dundee, or by some other person or persons ; and after having been printed at Edinburgh, or elsewhere, a number of copies of the said Writing or Paper, was transmitted, or caused to be transmitted, by the said Thomas Fysche Palmer to the said William Skirving, in order to be by him distributed and circulated : Which seditious and inflammatory Writing, or Paper, the said William Skirving did, sometime during the months of June, July, or August aforesaid, wickedly and feloniously circulate among various persons in Edinburgh, in the County of Edinburgh, or elsewhere ; and which seditious Writing, or Publication, was of the title and tenor following : “ Dundee, Berean Meeting, House, July 1793. At a General Meeting of the Friends of Liberty, they unanimously resolved to publish the following Address to their Fellow Citizens: “ *Friends and Fellow Citizens*, you who by your loyal and steady conduct, “ in these days of adversity, have shown that you are worthy “ of at least some small portion of liberty. Unto you we “ address our language, and tell our fears. In spite of the “ virulent scandal or malicious efforts of the people’s enemies, we will tell you whole truths. They are of a kind “ to alarm and arouse you out of your lethargy. That portion of liberty you once enjoyed is fast setting, we fear, in “ the darkness of despotism and tyranny. Too soon, perhaps, you who were the world’s envy as possessed of some “ small portion of liberty, will be sunk in the depth of slavery and misery, if you prevent it not by your well-timed “ efforts. Is not every new day adding a new link to your

" chains ? Is not the executive branch daily seizing new,
 " unprecedented, and unwarrantable powers ? Has not the
 " House of Commons (your only security from the evils of
 " tyranny and aristocracy) joined the coalition against you ?
 " Is the election of its members either fair, free, or fre-
 " quent ? Is not its independence gone, while it is made up
 " of pensioners and placemen ? We have done our duty,
 " and are determined to keep our posts, ever ready to as-
 " sert our just rights and privileges as men, the chief of
 " which we account the right of universal suffrage in the
 " choice of those who serve in the Commons House of Par-
 " liament, and a frequent renewal of such power. We are
 " not deterred or disappointed by the late decision of the
 " House of Commons concerning our Petition. It is a
 " question which we did not expect (though founded on
 " truth and reason) would be supported by superior num-
 " bers. Far from being discouraged, we are more and
 " more convinced that nothing can save this nation from
 " ruin, and give to the people that happiness which they
 " have a right to look for under Government, but a Re-
 " form in the House of Commons founded upon the eternal
 " basis of justice, fair, free, and equal.—Fellow Citizens,
 " The time is now come, when you must either gather
 " round the fabric of liberty to support it; or, to your e-
 " ternal infamy, let it fall to the ground to rise no more ;
 " hurling along with it every thing that is valuable and
 " dear to an enlightened people. You are plunged into a
 " war by a wicked Ministry, and a compliant Parliament,
 " who seem careless and unconcerned for your interest; the
 " end and design of which is almost too horrid to relate.
 " The destruction of a whole people, merely because they
 " will be free. By it your commerce is sore cramped and
 " almost ruined. Thousands and ten thousands of your fellow
 " citizens from being in a state of prosperity, are reduced
 " to a state of poverty, misery, and wretchedness. A list
 " of Bankruptcies, unequalled in any former times, forms a

" part of the retinue in this Quixotic expedition. Your
 " taxes, great and burdensome as they are, must soon be
 " greatly augmented; your treasure is wasting fast; the
 " blood of your brethren is pouring out; and all this to
 " forge chains for a free people, and eventually to rivet them
 " forever on yourselves. To the loss of the invaluable rights
 " and privileges which our fathers enjoyed, we impute this
 " barbarous and calamitous war, our ruinous and still grow-
 " ing taxation, and all the miseries and oppressions which we
 " labour under. Fellow Citizens—The Friends of Liberty
 " call upon you by all that is dear and worthy of possessing
 " as men; by your own oppressions; by the miseries and
 " sorrows of your suffering brethren; by all that you dread;
 " by the sweet remembrance of your patriotic ancestors;
 " and by all that your posterity have a right to expect from
 " you, to join us in our exertions for the preservation of
 " our perishing Liberty, and the recovery of our long lost
 " Rights."—FARTHER, a number of seditious and evil
 disposed persons, having during the course of the year one
 thousand seven hundred and ninety-three, or previous there
 to, at Edinburgh or elsewhere, associated themselves under
 the denomination of "Friends of the People" but with pur-
 poses inimical to the happiness of the people and to the
 peace and security of the country, the said William Skir-
 ving, above complained upon, being then a leading and active
 member of such illegal Association, and designing himself
 "Secretary General in Scotland" of the same; did, at E-
 dinburgh or elsewhere, on the fourth day of October, one thou-
 sand seven hundred and ninety-three, or on one or other of the
 days of that month, or of the month of September immediately
 preceding, or of November following, wickedly and
 feloniously compose, or cause to be composed and written,
 a seditious and inflammatory Hand Bill, (bearing date,
 "Masons Lodge Blackfriars Wynd, 4th October, 1793,"
 calling upon and inciting other illegal and seditious Associ-
 ations to convocate and unite together, and holding out

threatnings against those who either had counteracted or may counteract their seditious proceedings. AT LEAST, the said William Skirving did, time and place forefald, approve of, and recommend such seditious Hand Bill when written; and, which seditious Hand Bill, bearing the name of the said William Skirving, annexed to it, having been, by orders of the said William Skirving or of the Association to which he belonged, printed and published a number of copies, to the amount of several hundreds, was, by the said William Skirving, or by his orders, wickedly and feloniously distributed and circulated in Edinburgh, and elsewhere: Which Hand Bill, written and distributed as aforesaid, contained, among others, the following passages:

"The Landholder is called upon to coalesce with the Friends
 "of the People, lest his Property be soon left untenanted:
 "The Merchant, lest the Commerce of the Country be annihilated: The Manufacturer whose laudable industry has
 "been arrested in its progress: The Unemployed Citizen
 "—the great mass of labouring and now starving Poor,
 "and, finally, all the Rabble are called upon by the remembrance of their patriotic Ancestors, who shed their
 "blood in the cause of Freedom, and to whose memories
 "even the enemies of that cause are compelled to pay an
 "involuntary tribute of applause. They are called upon
 "by the endearing appellation of father, by the claims of
 "their children, and in the name of unborn millions, TO
 "DEMAND with the firm and energetic voice of justice,
 "the peaceful restitution of their Rights."——"V. That
 "the thanks of the Meeting are due to Mr. Skirving, of
 "Strathruddie, the Secretary, for his unremitted attention
 "to the duties of his office and the Interests of his Country,
 "try, and particularly, for having invited Societies of
 "every denomination to unite their exertions in the Common Cause, by sending Delegates to the ensuing General
 "Convention."——"Had certain Gentlemen countenanced
 "this Association last year, instead of pledging their lives

"and fortunes to prompt a corrupt and ambitious Mini-
 "stry to engage in a war, which could only bring guilt
 "and ruin on the Nation, we might have been still enjoy-
 "ing uncommon prosperity, and a happy understanding
 "amongst ourselves as brethren: And now, if they will
 "not manfully retract that very impolitic step, and imme-
 "diately join their influence to the only measure which
 "can prevent further calamity, if not anarchy and ruin,
 "their pledge may be forfeited, and the Friends of the
 "People will be blameless.—By order of the Committee,
 "(Signed) W. SKIRVING.—N. B. Those members who
 "do not attend, or send an excuse, will be publicly called
 "upon to give their reasons for absenting themselves."

ACCORDINGLY, a General Meeting of the said illegal
 Associations having taken place at Edinburgh, in the
 month of October foresaid, in consequence of the above
 Hand Bill, distributed and circulated as aforesaid, and
 which General Meeting, having at first assumed the name
 of the General Convention of the Friends of the People,
 and, having thereafter, presumptuously and seditiously ar-
 rogated to themselves the name of *The British Convention*
of the Delegates of the People, associated to obtain Universal
Suffrage, and Annual Parliaments; DID, in the whole form
 and manner of their procedure, as well as in the principles
 it publicly avowed and propagated, clearly and unequivocally
 demonstrate, that under the specious pretext of Reform,
 their purposes were of the most dangerous and destructive
 tendency, hostile to the peace and happiness as well as to
 the Constitution of this Realm; and too plainly indicating
 the same rebellious maxims which have governed, and do
 still govern the proceedings of the Convention of France,
 the public and avowed enemies of this Country, and with
 whom this Nation is at present at open war: IN PAR-
 TICULAR the members of the said Association, under the
 names and denominations aforesaid, DID, in the months of
 October, November, and December, one thousand seven

hundred and ninety-three, at Edinburgh aforesaid, in imitation of the proceedings of the said French Convention, call each other by the name of *Citizen*, divide themselves into *Sections*, appoint Committees of various kinds; such as of *Organization*, of *Instructions*, of *Finance*, and of *Secrecy*, denominate their Meetings "*Sittings*," grant Honours of *Sittings*, and inscribe their minutes, with "*The First Year of the British Convention*." The members of which Seditious Association did, moreover, at times and places aforesaid, make Harangues and Speeches, as well as Resolutions and Motions, of the most Seditious tendency; the Substance of which Harangues and Speeches, and of said Resolutions and Motions were, by orders of said Association, not only minuted, but published in a Newspaper, entitled "*The Edinburgh Gazetteer*," and through that medium circulated among the lieges. Among other equally Seditious Motions, Resolutions and Speeches, minuted and published as aforesaid, were the following: [*Scroll, Minutes*, p. 37, and 47.] "That previous to publishing an Address to the Public, a Committee be forthwith appointed to consider the means, and draw up the outlines of a plan of General Union and Corporation between the two Nations, in their pursuit of Parliamentary Reform." Which Motion, or one of a similar import, was unanimously agreed to, and a Plan of Union afterwards resolved on, thereby indicating their intention of propogating their principles over the whole Nation, and exciting the People to the same violent and unconstitutional procedure [*Minutes*, p. 62.] "Citizen Callander moved, that in case the Minister bring into the Commons House, a Motion for a Convention Bill, such as was passed in Ireland, it shall be noticed immediately to the Delegates."—AT LEAST a Motion of the above tendency and import was made. In consequence of which Motion it was afterwards determined that a Convention of Emergency should take place; and a Motion was made in the following terms, or at least of the

following import and tendency : [*Minutes*, p. 67.] " That
 " a Secret Committee of three, and the Secretary, be ap-
 " pointed to determine the place where such Convention
 " of Emergency shall meet; and such place shall remain
 " a secret with them, and with the Secretary of this
 " Convention; and that each Delegate shall, at the break-
 " ing up of the present Session, be entrusted with a sealed
 " letter, containing the name of the place of meeting, ' this
 " letter shall be delivered, unopened, to his Constituents, the
 " receipt of which shall be acknowledged by a letter to the
 " Secretary, preserved in the same state, until the period
 " shall arrive at which it shall be deemed necessary for the
 " Delegate to set off.' Which Motion was unanimously ap-
 " proved off. " Moved, That the moment of any illegal
 " dispersion of the present Convention shall be considered
 " as a Summons to the Delegates to repair to the place of
 " meeting appointed for the Convention of Emergency by
 " the Secret Committee; and that the Secret Committee
 " be instructed to proceed, without delay, to fix the place of
 " Meeting. The Convention having considered the Mo-
 " tion fully, unanimously resolved the same, and appointed
 " the Secret Committee to proceed as desired. [*p. 77*] Moved,
 " That a Committee be appointed to draw up a Declara-
 " tion of the natural, unalienable, and imprescriptible
 " Rights of Man, and that the same be prefixed to the Ad-
 " dress to the People of Britain." [*p. 83.*] Which Motion,
 it appears, was afterwards referred to the Committee of
 Union. [*p. 84.*] " Moved, That all the Delegates who had
 " left the Convention should receive letters to return im-
 " mediately, and remain at their posts till the important
 " business, which was daily introduced into the Conven-
 " tion, should be properly discussed." All which Motions
 and Resolutions, together with others of the like seditious
 tendency, as also, Harangues and Speeches of a similar
 import, were, by authority of the forefaid Association, or-
 dered to be minuted and inserted in the Newspaper called

the Edinburgh Gazetteer of Tuesday, November twenty-sixth, one thousand seven hundred and ninety-three, No. 78. Of Tuesday, December third, one thousand seven hundred and ninety-three, No. 79. And of Tuesday, December tenth, one thousand seven hundred and ninety-three, No. 80. And the said William Skirving, above complained upon, was, during the time aforesaid, not only a Member of the said Association, and the chief instrument of calling them together; but was all along present at the fore-said Meetings, and acted, and was acknowledged as their Secretary; at which times he voted for, and approved of every Motion and Resolution that passed, and particularly he wickedly and feloniously at times and place fore-said, voted for and approved of the motions and Resolutions above mentioned; AND NOT ONLY SO, but the said William Skirving, did himself, at times and place fore-said, wickedly and feloniously propose and move Resolutions of the same inflammatory and seditious tendency: AND PARTICULARLY, the said William Skirving did, sometime during the months aforesaid, at Edinburgh aforesaid, make the following, or Motions of a similar import and tendency: "*Minutes*, p. 34. That the Convention express its ardent desire to cultivate a more close union with the Societies in England. P. 56. That an Address to the Public should be drawn up by the Committee of Union. That a Committee of Finance be appointed. That the Delegates from the Country, who may run short of money by the prolongation of the business of the Convention, shall be supplied by the Treasurer. That all the Members, both of the Convention and of the Primary Societies, should subscribe a Solemn League and Covenant." And the said William Skirving did also concur in the Motion formerly mentioned, for a Secret Committee, agreed to be one of the same, and did act accordingly in that capacity. BY all which, and particularly by his acting as Secretary to, and taking the

chief management of the business of the said Meetings, the said William Skirving showed himself an active Ring-leader of the said seditious Associations. FURTHER, upon Thursday the fifth day of December, one thousand seven hundred and ninety-three, or upon one or other of the said days or nights of that month, the Provost and Magistrates of the City of Edinburgh, having, in pursuance of their duty, repaired to a Room or Mason Lodge in Blackfriars Wynd, of Edinburgh, where the foresaid illegal Association was met, in order to disperse the same; the said William Skirving, above complained upon, with others, his Associates, Members of the said Meeting, did then and there resist the authority of the said Magistrates, and refused to depart, unless they were compelled to do so by force; upon which the Provost or some other Magistrate then present, was obliged to lay hold of the person of him who was then acting as President, and forcibly to draw him from his seat, and to compel the other Members to leave the Room: notwithstanding which dispersion, the said William Skirving, and others his Associates, did immediately repair to a house in that Close, in the head of the Canon-gate of Edinburgh, commonly called the Flesh Market Close, and did there resume their foresaid illegal Meeting, and in open contempt and defiance of the Civil Magistrate, did then and there declare their Meetings permanent. And the said Association having, on the day following, again met in a Room or Work-shop in Lady Lawson's Yard, situated on the south side of the Street called the Crofscaufway, in the Parish of St. Cuthberts and Shire of Edinburgh, belonging to or possessed by John Laing, wright; at which Meeting the said William Skirving was present, was again dissolved in manner foresaid, by the Sheriff Substitute of the County of Edinburgh, and others his Assistants, after being obliged to use a similar mode of compulsion. FURTHER, notwithstanding of the foresaid repeated interferences of the Civil Magistrate; and, notwithstanding that the Lord Pro-

vest and Sheriff of Edinburgh had, on the seventh day of
 the said month of December, issued a Proclamation, giving
 notice to the persons of the said Association; that if they
 persisted in holding their Meetings, they would be appre-
 hended as disorderly persons, and dealt with accordingly;
 and also prohibiting the Proprietors of Halls and other
 places of meeting, from permitting such Associations to as-
 semble there. The said William Skirving did wickedly
 and feloniously, upon the tenth day of December, one
 thousand seven hundred and ninety-three or upon one or
 other of the days of that month, or of November preced-
 ing, publish an Advertisement in the Edinburgh Gazetteer,
 No. 80, of date the tenth of December aforesaid, signed
 William Skirving, and Addressed "To the Friends of the
 "People," inviting them to assemble in a House belonging
 to him, William Skirving, their Secretary, formerly deno-
 minated the Cockpit, on the Thursday following. In
 consequence of which Advertisement the Magistrates of
 the City of Edinburgh, thinking it their duty to prevent
 the foresaid Meeting from taking place, did accordingly,
 by a prohibition or interdict of date the eleventh of Decem-
 ber, one thousand seven hundred and ninety-three, grant
 warrant to, and authorise the officers of their Court, and
 Constables, and all other executors of the law, to pre-
 vent and suppress such unlawful convocation, and to take
 into custody all such persons as should attempt to contra-
 vene the same. Which judgment, or prohibition, was ac-
 cordingly notified to the said William Skirving, who had
 been brought before the Magistrates and had emitted a de-
 claration of that date; acknowledging his having inserted
 the said Advertisement. Notwithstanding of which prohibi-
 tion, the said William Skirving did, upon the twelfth day
 of December, one thousand seven hundred and ninety-three,
 repair to the place where he had advertised, as above-
 mentioned, the foresaid illegal Association to be held, and
 in place of only reading or notifying the judgment of the

Magistrates to those who were convened; he did at the said Cockpit, or at the entry of the lane, or passage thereto from the Grass-market of Edinburgh, produce and read a paper of the following tenor: "*Members of the Committee of the Friends of the People.* The Magistrates of the city "having forbid your legal and constitutional Meeting, called "this day by Advertisement, and by their proceedings to "prevent it, having given occasion to a great concourse of "people, which may issue in tumult, and hinder your de- "liberations, it is judged proper to adjourn the Meeting, "and to lay the business of it before the several Societies, "for their separate determination. It is therefore propo- "sed to you to give place to the violence used against you: "You will thereby convince the Public that you did not "deserve such treatment; and now that your Delegates "have a permanent existence, your several Societies will be "multiplied greatly, and means will be used to lay the "business before each Society individually, by printed Bul- "letins." Which paper, holograph of the said William Skirving, being of a most seditious tendency, and evidently calculated to excite the people to a continuance of their foresaid illegal Associations, was forcibly taken from the said William Skirving, when in the act of reading the same, by some of the Magistrates, Constables, or Peace Of- ficers then present. And the said William Skirving, above complained upon, having, upon the fifth day of December, one thousand seven hundred and ninety-three, been apprehended in consequence of a warrant granted by the Sherriff Depute of the County of Edinburgh, and a number of let- ters, minutes, and other writings and papers, having been found in his custody, they were put into two bags and seal- ed up in the presence of him and others, then present; and the said William Skirving having hereafter, upon the same day, been carried before Harry Davidson, Esq; Sherriff Substitute of the County of Edinburgh, he did, in his presence, emit a declaration, which, as he declined to sign,

was subscribed by the said Sheriff Substitute; and the said two sealed bags being at same time opened, in presence of the said Sheriff Substitute, and the said William Skirving; an inventory of the papers, and other writings therein, was made up in their presence, and which inventory is also signed by the said Sheriff Substitute, as relative to the foresaid declaration. AND the said William Skirving having, upon the eleventh day of December, one thousand seven hundred and ninety-three, been brought before the Right Honourable the Lord Provost, and Neil M'Vicar and William Coulter, Esqrs. two of the Magistrates of the City of Edinburgh, did, in their presence, emit and sign a Declaration; And, having on the twelfth day of the said month of December, been again brought before the said William Coulter, did, in his presence, emit and sign a declaration: WHICH declarations, together with three other declarations, the one emitted and signed by the said William Skirving on the thirty-first day of July; one thousand seven hundred and ninety-three, before Harry Davidson, Esq; Sheriff Substitute of the shire of Edinburgh; another emitted and signed by the said William Skirving, the seventh day of August, one thousand seven hundred and ninety-three, before the said Sheriff Substitute; and the third, emitted by the said William Skirving, upon the eighth day of August, one thousand seven hundred and ninety-three, before the said Sheriff Substitute, and signed by him, as the said William Skirving declined to sign the same; AS ALSO a Petition signed by the said William Skirving, given into our High Court of Justiciary, on the thirteenth day of August, one thousand seven hundred and ninety-three; as also a copy of the above-mentioned seditious paper, dated, "Dundee, Berean Meeting House, July 1793;" As also copies of the above-mentioned Hand-Bill, dated, "Mason Lodge, Blackfriars Wynd, 4th October, 1793." And copies of the Edinburgh Gazetteer, numbers seventy-eight, seventy-nine, and eighty; together with the scroll or draft of the Minutes of the General

Convention, from the twenty-ninth of October, to the fourth of December, one thousand seven hundred and ninety-three, consisting of ninety-five pages, and found in the custody of the said William Skirving, when apprehended, as above, being number first, of the foresaid inventory relative to the declaration of the said William Skirving, emitted on the fifth of December, one thousand seven hundred and ninety-three; AS ALSO the said inventory itself, with the whole other papers and writings therein contained, and referred to; AS ALSO the paper produced and read by the said William Skirving, at the Meeting at the Cockpit, aforesaid; AS ALSO, a Letter, dated "Dundee, July 9th, "1793," (Signed) "T. F. Palmer," and addressed, "Mr. Skirving, opposite Old Assembly Close, Cowgate;" WILL ALL be produced in evidence against the said William Skirving, and will, for that purpose, be lodged in due time with the Clerk of the High Court of Justiciary, before which he is to be tried, that he may have an opportunity of seeing the same. AT LEAST times and places above-mentioned, the said acts of sedition, by circulating and distributing, the foresaid seditious productions, convoking the said illegal Associations, passing and making the said inflammatory resolutions and motions, resisting and contemning the authority of the civil Magistrate, employed in dispersing the said Associations, were all committed; And the said William Skirving, above complained upon, as guilty actor, or art and part, of all and each, or one or other, of the said acts: ALL WHICH, or part thereof being found proven by the verdict of an assize, before our Lord Justice General, Lord Justice Clerk, and Lords Commissioners of Justiciary, in a Court of Justiciary, to be holden by them within the Criminal Court House of Edinburgh, upon the sixth day of January next to come. The said William Skirving, above complained upon, ought to be punished with the pains of law, to deter others from committing the like crimes in all time coming. OUR WILL IS, &c.

LIST OF WITNESSES,

To be adduced against William Shirving.

- 1 Harry Davidson, Esq. Sheriff Substitute of the Shire of Edinburgh.
- 2 Joseph Mack, Writer in Edinburgh.
- 3 John Dingwall, Writer in Edinburgh.
- 4 William Scott, Procurator Fiscal of the County of Edinburgh.
- 5 William Middleton, Sheriff Officer, Edinburgh.
- 6 Andrew Scott, King's Constable of Excise, Edinburgh.
- 7 George Galloway, Sheriff Officer, Edinburgh.
- 8 Alexander Morren, Grocer and Spirit Dealer in Edinburgh.
- 9 John Morren, Printer in Edinburgh.
- 10 William Moffat, Solicitor at Law in Edinburgh.
- 11 James Kidd, Leather Merchant in Edinburgh.
- 12 Alexander Aitchison, Student of Medicine, residing in Canongate of Edinburgh.
- 13 William Ross, Clerk in the Gazetteer Office, Edinburgh.
- 14 George Ross, Clerk in the Gazetteer Office, Edinburgh.
- 15 Mitchell Young, Painter in Edinburgh.
- 16 William Sawers, Merchant, Lawn Market, Edinburgh.
- 17 John Wardlaw, Writer in Edinburgh.
- 18 William Urquhart, Shoemaker in Hanover Street, Edinburgh.
- 19 John Laing, Wright, in Nicolson Street, Edinburgh.
- 20 George Malcolm, Shoemaker in Canongate of Edinburgh.
- 21 John Clark, Mason in Edinburgh.
- 22 William Romanes, Merchant, Lawn Market, Edinburgh.

- 23 Charles Ritchie, Merchant, Lawn Market, Edinburgh,
- 24 Thomas Cockburn, Merchant, Lawn Market, Edinburgh,
- 25 Samuel Paterfon, Merchant in Edinburgh.
- 26 Alexander Bell, Tobacconist in Canongate of Edinburgh.
- 27 Andrew Newton, formerly Tobacconist in Dunse, now residing in St. Patrick's Square, Edinburgh.
- 28 John Gourlay, Watchmaker, Edinburgh.
- 29 Archibald Binnie, Type Founder, in Edinburgh.
- 30 David Downie, Goldsmith, in Edinburgh.
- 31 John Buchanan, Baker, in Canongate of Edinburgh.
- 32 Alexander Fortune, Leather Merchant, in Canongate of Edinburgh.
- 33 John M'Intyre, Teacher, in College Wynd of Edinburgh.
- 34 James Robertson, Printer in Edinburgh.
- 35 William Lind, Apprentice to the said James Robertson.
- 36 James Fraser, Sheriff Officer in Edinburgh.
- 37 James Williamson, Clerk to William Scott, Solicitor at Law in Edinburgh.
- 38 Archibald Welch, also Clerk to the said William Scott.
- 39 The Right Honourable Thomas Elder Lord Provost of the City of Edinburgh.
- 40 Neil M'Vicar, Esq. one of the Magistrates of Edinburgh.
- 41 William Coulter Esq. one of the Magistrates of Edinburgh.
- 42 James Laing, one of the Depute City Clerks of Edinburgh.
- 43 James Dove, Town Officer in Edinburgh.
- 44 Archibald Campbell, Town Officer in Edinburgh.
- 45 James Burnet, Grocer in Edinburgh, Preses of the Society of Constables.
- 46 James Denholm, Hat maker in Edinburgh, and one of the present Constables in Edinburgh.

(Signed) JOHN BURNETT, A. D.

LIST OF ASSISE.

- Sir Patrick Warrender, of Loohend, Bart.
 Sir Andrew Lauder Dick, of Fountainhall, Bart.
 Sir Hew Dalrymple, of North Berwick, Bart.
 Sir James Hall, of Dunglass, Bart.
 5 General Henry Fletcher, of Salton.
 William Nisbet, of Dirleton, Esq.
 John Hamilton, of Pencaitland, Esq.
 Robert Baird, of Newbyth, Esq.
 Francis Kinloch, jun. of Gilmerton.
 10 Robert Hay, of Drummelzier.
 Robert Hunter, of Thurston.
 William Newton, of Newton.
 John Hay, of Hopes.
 James Wilkie, of Gilkerston.
 15 John Glassell, of Long Niddry.
 Alexander Mackenzie, of Seaton.
 David Anderson, of St. Germains.
 James Hepburn, of Humbie.
 John Caddell, of Cockenzie.
 20 Thomas Brown, of Johnstonburn.
 James Craig, of Setonhill.
 Francis Buchan, Sydserf of Ruchlaw.
 George Home, of Branxton.
 James Syme, of Northfield.
 25 James Hay, of Nunraw.
 John Milne, Iron Monger in Edinburgh.
 William Lamb, Upholsterer there.
 Walter Brunton, Saddler there.
 William Fettes, Merchant there.
 30 William Cooper, Upholsterer there.
 Andrew Boog, Cuttler there.
 Robert Buchan, Painter there.

Robert Dempster, Druggist there.

Thomas Armstrong, Coppersmith there.

85 John Beugo, Engraver there.

Alexander Allan, Merchant there.

Peter Frazer, Merchant there.

Francis Howden, Jeweller there.

David Milne, Merchant there.

40 John Gloag, Merchant there.

Thomas Smith, Tinsmith there.

Robert Kerr, Haberdasher there.

Edward Innes, Confectioner there.

Francis Braidwood, Upholsterer there.

45 Angus M'Donald, Merchant there.

(Signed) ROBT M'QUEEN.

JOHN SWINTON.

WM NAIRN.

ALEX^r ABERCROMBY,

I Andrew Murison, Macer to the High Court of Justiciary, by virtue of criminal letters, dated and signed the twentieth day of December, current, raised at the instance of Robert Dundas Esq; of Arncliffe, his Majesty's Advocate for his Majesty's interest, against William Skirving, tenant, or lately tenant in Damhead, now designing himself of Strathruddie, and presently residing in Edinburgh, in his Majesty's name and authority, command and charge you, the said William Skirving, to compare and to come and find sufficient caution and surety, acted in the books of adjournal, That you shall compare before the Lord Justice General, Lord Justice Clerk, and Lords Commissioners of Justiciary, in a Court of Justiciary, to be holden by them within the Criminal Court house of Edinburgh, upon the sixth day of January next, in the hour of cause, there to underly the law, for the crimes specified in the said criminal letters; and that under the pains contained in the

Acts of Parliament; and that you come and find the said caution and surety, acted in manner foresaid, within five days next after the date hereof, under the pain of rebellion, and putting of you to the Horn, with certification as officers. Of which criminal letters to the will, with a list of the persons names and designations that are to be adduced as witnesses against you, and a list of the persons names and designations, that are to pass upon your Affize; I herewith give you full and exact copies, upon the thirty-four preceeding pages, upon this twenty-first day of December, one thousand seven hundred and ninety-three years, before these witnesses, William M'Beath, and John M'Beath, both indwellers in Edinburgh, one word on page third, one word on page fifth, four words on page nineteenth, five words on page twenty-first, four words on page eighteenth, and seven words on page twenty-sixth, on the said preceeding copy of the criminal letters, being delate before serving.

(Signed) ANDREW MURISON.

Lord Justice Clerk. What do you say to this, Mr. Skirving; are you guilty or not?

Mr. Skirving. I am conscious of no guilt, my lord.

Lord Justice Clerk. Have you any counsel for you?

Mr. Skirving. No, my lord, I have the misfortune to have no counsel whatever.

Lord Esqgrove. Mr. Skirving very well knows that if he had wished for counsel, and had applied to the court, he might have had counsel.

Mr. Skirving. Such is the apprehension of your prejudice against the Friends of the People, that is gone forth that an agent before the court said, it was almost giving up his business to be seen doing any thing for the Friends of the People; and therefore, I thought I would trust to the court, and do as well as I could without counsel.—It is very unfortunate that I have had so little time to prepare for my defence; however, conscious of innocence, I must trust myself in the hands of the court, and make the best defence I can.

✓ *Lord Esbrough.* We know very well, that both the agents and the court have so much compassion, that they never refuse to assist any pannel.

Lord Justice Clerk. The meanest subject that comes to this court, may have counsel if he applies for it. Do you wish to have counsel now?

Mr. Skirving. I should be very glad of the assistance of counsel, but it would now be taking any gentleman at unawares.

Mr. Solicitor General,

My lords, as the pannel has stated no particular objections to the relevancy, or to the form of the criminal libel exhibited against him, perhaps in point of form the public prosecutor might dispense with saying any thing at all upon the subject; at the same time, in this case, I judge it may not be improper, for the sake of the jury who are to try this case, before the proof is adduced before them, to make some observations upon the nature of the charge contained in this indictment. And, my lords, I would the rather at this period of the cause, because I speak under the correction of your lordships; because, if I state any thing improperly, if I draw any thing out of this indictment that is not agreeable to law, your lordships, I know, will correct me.

My lords, the general nature of the charge, exhibited against this pannel, is a charge of sedition, with regard to which, my lord, it is unnecessary to say any thing. My lord, unfortunately we live in times when it is unnecessary, in this criminal court, after what has passed, to say a single word, either with regard to the nature of sedition, or with regard to the mischievous tendency of it. Your lordships have repeatedly delivered opinions upon that subject, and therefore it is unnecessary to say any thing upon it.

My lord, the particular acts of sedition, charged in this libel, consist of two branches:—The first is a charge of circulating, and distributing a seditious libel: it is not necessary to trouble your lordships upon this libel; it will be before the jury; and, I think it is impossible for any person to have a doubt, that it is seditious, and seditious in the highest degree; and it is only no-

necessary to add, that this paper, the circulation of which is charged upon this pannel, has been already adjudged by two of your lordships, to be highly criminal; which was followed up by the conviction, and judgment of Fyfe Palmer, who was charged with being the author of it, this pannel being charged with the publication of it.

My lord, the second branch of the charge relates to the proceedings of what is termed a British Convention, in which this gentleman is charged with taking a very principal part.

Now, my lord, with respect to this, taking the facts as they are stated upon the face of the indictment, I say, that the meeting itself,—that the whole proceedings of that meeting were, from first to last, illegal, seditious, and such as cannot be tolerated in any established government. My lords, this will appear, by taking a view of those parts of their proceedings, and operations, which are stated upon the face of the libel.

My lord, let us begin in the first place, with the manner in which this meeting is called together. The libel states, that it was called together by an advertisement, published by this gentleman, Mr. Skirving; in the indictment it is engrossed, and has been read to your lordships. There are two things in it of which I beg leave to take notice. In the first place, the people are called upon, to demand with the firm and energetic voice of justice, the peaceful restitution of their rights,—which is just, in other words, telling the people that they had been deprived of their natural rights; and that they are now called upon to meet in this Convention, to obtain the restitution of that which had been unfairly taken from them: It further contains a menace held out to the most respectable inhabitants of this country; a menace is held out to those gentlemen who a twelve-month ago associated themselves to maintain the lawful possession of the government, in opposition to these illegal associations. “ Had certain gentlemen countenanced this association last year, instead of pledging their lives and fortunes to prompt a corrupt and ambitious ministry to engage in a war, which could only bring guilt and ruin on the nation, we might have been still enjoying uncommon prosperity, and a happy understanding amongst ourselves as brethren: And now, if they will not manfully re-

of that very impolitic step, and immediately join their influence to the only measure which can prevent further calamity, "if not anarchy and ruin, their pledge may be forfeited, and the Friends of the People will be blameless." Their pledge may be forfeited—that is to say, their lives are to be forfeited; and the Friends of the People will be innocent. This is the manner in which the meeting is called together, and a menace held out to nine tenths of the inhabitants of Great Britain; a menace held out to all the respectable people, who had anything to lose by scenes of anarchy and confusion. Upon this advertisement, the libel states "that a meeting did assemble, and that the parties having at first assumed the name of the General Convention of the Friends of the People, and, having thereafter, presumptuously and seditiously arrogated to themselves the name of *The British Convention of the People, associated to obtain Universal Suffrage, and Annual Parliaments*;" British Convention of the Delegates of the People; thereby holding out, that they were the representatives of the inhabitants of Great Britain—nothing more false,—nothing more seditious; the people of Great Britain, we have reason to be thankful, are represented in Parliament. The very name of British Convention carries sedition along with it; it is assuming a title which none, but the members of the established government have a right to assume. And the British Convention, associated for what? for the purpose of obtaining universal suffrage; in other words, for the purpose of subverting the government of Great Britain; because, I will take it upon me to affirm, that universal suffrage is an idea that never entered the head of those who framed the constitution, those who laid the foundation of that happy constitution under which we live; nor was it ever maintained, or ever thought of by any body else.

My lord, I say it would be such an idea, that, if it was once adopted, would be at once declaring that the constitution of Great Britain is at an end; an idea that our ancestors never thought of, and never was adopted in any country, ancient, or modern, at least in any government of the extent of Great Britain it was never tried, except indeed in one instance—a modern experiment, and one, which I should have thought, that no na-

tion in the world would chuse to repeat. I mean the experiment made by France.

My lord, having assumed this name, which I say carries sedition upon the face of it, they proceed, as is stated in the indictment, and in the whole of their proceedings they assume the names, and the language of the French convention; they have a convention; they have primary assemblies, they have the name of citizens, which the members of the society commonly pass by,—they have committees of finance, of instruction, of organization; and they date their proceedings, in the first year, not of the republic indeed, but of the British Convention. In short we find them constantly departing from the language of this country, and adopting foreign language; which, when connected with those scenes that it has produced, shew a wish to adopt a model, which, I am not a little surprised that any person in this country could have thought of. Indeed, this very circumstance, connected with what has happened in another country, appears to me so strong, that, had not our information been most strong and pointed, I should not have believed it possible, that any set of men could have held meetings that were, if I may use the expression, consecrated to mischief; using a phraseology which laid the foundation of those scenes of anarchy,—those scenes of rapine,—those scenes of bloodshed, of cruelty, and barbarity hitherto unknown in the world; which have desolated that unhappy country, and disgraced it among the nations of the earth. I say, I could not have believed, that, in this country, any man, or set of men, with those scenes before their eyes, for I say, not one of them can be ignorant of what is going on in France,—I say, with this awful memento before their eyes, that they should notwithstanding have chosen to form themselves upon that wicked model. I can only see one excuse, and the pannel may plead that, and satisfy the jury of it, that it was done with a good and beneficial purpose; that he and his associates, desirous to check that tide of sedition in this country tending to alarm the sober minded people, that they, on purpose, assumed this language, in order to shew, that they had now thrown off the mask, to shew plainly what they were pointing at, thereby to disgust and alarm every sober, every thinking, rational person; if the pannel can

prove that this was his intention, that may be a very good excuse; but, I say it is impossible that any other apology or any other excuse can be framed for it.

Then, my lord, the libel states some particular motions and proceedings of this assembly, particularly a motion made by citizen Callendar, directed to an event which they saw might happen. Namely, proceedings in parliament to put a stop to their meetings. Citizen Callendar's motion was, that notice should be immediately given to the delegates—well what follows? a resolution that they shall be called a convention of emergency. When the proof comes before the court, they will see what those emergencies were; one of the emergencies was in case a convention bill should be brought into parliament; and another that of a French invasion happening. In either of these cases, this convention of emergencies was to take place, to assemble together; and what is more extraordinary, the place of meeting is to be a secret amongst themselves; a committee of secrecy is to be appointed, of which Mr. Skirving is a member; which is to be kept secret from the *world and every body else* but the committee. Does it need language to express what this means, that this convention is to meet together, and in a place where no person is to know where they meet? is it possible for any construction to be put upon this, but that it was in order to prevent any measures being taken to stop their meeting, which were contrary to law, and could not be tolerated in any country? and why should this matter be kept a secret if it was only to petition parliament for a reform? what occasion was there for secrecy and hiding themselves in holes and corners? I say this committee of secrecy and this convention of emergencies stamps sedition upon the whole of the proceedings.

My lords, I shall have only one other motion to take notice of, a motion made by Mr. Skirving himself. "That the delegates from the country, who may run short of money by the prolongation of the business of the convention, shall be supplied by the treasurer. That all the members, both of the convention and of the primary societies, should subscribe a solemn league and covenant." I am sure no words are necessa-

to satisfy your lordships, that this was most illegal and most seditious.

My lord, those are the principal acts of this seditious meeting, which are stated in the libel, and to which the attention of the jury will be particularly attracted.

My lord, the indictment next goes on to state some particulars, with regard to the dispersion of this meeting, when the magistrate and sheriff found it their duty to disperse them; and you will find that after being so dispersed, they met again; another meeting is held at the cockpit, and there the magistrates also declared, they must not meet; upon which Mr. Skirving reads a paper, which is of a very invidious nature, it takes care to mention every thing that can put them in a passion, it is just as if I had said every thing I could to put a man in a passion, and then desired him to be calm; telling the people, that to prevent them from assembling was an act of violence on the part of the magistrates.

My lord, such are the acts charged against this pannel, and which, I have no difficulty in contending, are most illegal and seditious.

I might plead before your lordships, that a meeting of this kind was seditious, illegal, subversive of government, *at every period whatever*, had such a meeting been held five years ago, when every thing was quiet in this country, I should have had no difficulty to prove it was seditious: but you will attend to the time at which this meeting was held, the law is always the same, immutable, but the crime is of that nature, that the circumstances of the time must operate very strongly; and what is a slight thing at one period, may be a very atrocious act at another; for example, to draw an illustration from what some of us may remember, supposing five or six years ago it had happened, that a few persons in Edinburgh, had assembled, put on white cockades, marched to the castle-hill, and fired a shot or two, I presume nobody would have thought at that period, that that was high treason, it would have been deemed a riot, and not high treason; but suppose the very same facts had happened in the year 1745, they would have amounted to high treason, and the persons would have been tried, found guilty, and suffered death

as traitors; therefore I say, the complexion of the times speaks the intention of the parties, and if ever there was a period when a man was called upon to abstain from seditious practices, it is the present, when he has seen the misfortunes of a neighbouring country, when he has been warned by the king, in whom he has vested the execution of the law, having been warned by proclamations, warned by proceedings in every penal court in Great Britain, to abstain from every thing that looks like the appearance of sedition. I say, if at these times men are so perversely obstinate as to assemble such a meeting, it denotes a criminal intention much greater, than if the same things had happened at another period.

My lord, it is in vain for these gentlemen to say, (which is the language ostensibly held by these persons,) that their purpose was to petition parliament. I have no difficulty in admitting, what it is impossible to dispute, that every subject has a right to petition the king, has a right to petition parliament, and God forbid it should ever be violated; but we all know, that a petition to parliament may be made a colour for much mischief; we all know, what happened in our own times, about twelve or thirteen years ago, when a set of persons assembled in St. George's fields in London, what was their object? The ostensible language was to petition parliament for a reform of grievances, or for something *not so bad*, to prevent parliament from altering the law; they assembled as petitioners; and they concluded, with besieging the legislature, with insulting the members, and in a few days, spread fire and bloodshed through the British empire. God be praised, there is now no danger, I hope, of any thing of this kind; but I mention it, to shew your lordships what crimes may be committed under this pretence. I trust in God, that here there is no danger; and I trust that, at present, notwithstanding the spirit of sedition, which has gone forth, and been propagated industriously among the uninformed part of the community, the constitution is too firmly established upon the great basis of natural justice, of the common good and of liberty,—that rational liberty, which is compatible with a regal government, I say, it is too firmly established, and too strongly fixed upon the hearts of the people to be shaken by such in-

Arguments as these. Although the government is not in danger, the attempt to shake it, though impotent, I trust is not the less criminal,—is not the less libellous.

I have made these observations, in order that the jury, when the cause must go to proof, as no objection has been made to the relevancy, that they may be able to fix their minds upon those parts, which are the essence of the charge; and if I have mistated any thing I am under your lordships' correction.

Lord Justice Clerk. You have given us a very good commentary upon the indictment; but there is one part which you have not read, and I want to hear your commentary upon the words of it. "And now if they will not manfully retract that very impolitic step, and immediately join their influence, to the only measure, which can prevent further calamity, if not anarchy and ruin, their pledge may be forfeited; and the Friends of the People will be blameless."

Mr. Solicitor General. That, whatever mischief happens, the blame is not to be laid upon the Friends of the People, because they have so good a cause.

Lord Justice Clerk. I suppose the Friends of the People, might cut our throats, with impunity; they would not be blameable.

Mr. Skirving. I should have been happy if the pleadings of relevancy had been before the jury. I think the jury are entitled to hear the relevancy, because the relevancy is a matter for the jury to consider; and the jury ought to be present, in order that no part of my cause be prejudged.

Lord Justice Clerk. They are all present in court.

Mr. Skirving. But, they are not *in* court my lord, nor upon oath; I am very willing, however, to say any thing that I have to observe upon the relevancy before your lordships; but, I certainly think myself bound to go over it again before the jury, after the oath of God is upon them. Not being accustomed to speak in public, I am not able to follow the solicitor general in the long speech that he has made; but I have thrown my thoughts together, and shall beg leave to read them to your lordships, from the paper in my hand, if I am permitted. In the mean time, I would observe, that I am not accountable for the acts of the convention, I am summoned before your lord-

ships as an individual, and I dare say, the convention are able to justify themselves for what they have done, when called before your Lordships, and will certainly justify themselves. In that point of view, every thing that the solicitor general has laid falls to the ground. Any thing that respects me, in this convention, I am ready to answer for; but I apprehend there is nothing laid against me in particular that is worth the noticing. The solicitor general thought it was unnecessary to say any thing with regard to the major of the proposition in the indictment, I have a very different idea of it; because, I suppose no indictment is properly laid, unless the major of the proposition in the indictment, answers to the major part of the proposition in the statute, upon which it is founded. In my indictment the crime laid is sedition—what this transgression is, we are left to discover by an investigation of the several articles in the minor part of the proposition laid in the libel, that is to say from the overt acts charged against me in it, so far as the pannel has observed in the indictment before this court. But, surely the prosecutor ought to have specified the crime as defined, in some one or other of the statutes to which he refers, and which are presently cognizable in this court; and in the transgression of which he wishes to prove that I have been guilty.

In the indictment, I am charged to compar in a court of judicary, to answer for the crimes specified, &c.

Now, in the major proposition of the indictment, only one crime is laid, namely sedition. Here you see crimes, not one crime, but crimes are said to be specified. Does the prosecutor intend to bring forward more than he has given me warning to provide my defence against? The court surely will never permit him to do any such thing. They will not permit him to take me at unawares with a single charge, more than what is laid in his indictment. Now, this is sedition; and there is not a single thing more than sedition charged against me.

Sedition! I know not what the prosecutor means by sedition; for he does not attribute a single quality either of mind or action to it. I am not called on to declare any opinion of it; he only says "WHEREAS," &c.—and he says no more; surely whatever idea he has of sedition, yet after describing it as a crime so heinous,

and so severely punishable, he never could intend, that the things charged in the minor proposition, went to make up any such heinous crime, or indeed any crime whatever. Would it ever enter into any person's mind to suppose, that acting in the capacity of secretary to a number of societies, my receiving a parcel of papers according to the first charge in the libel, from one of these societies, and shewing them to a few of the persons entrusted with the business of the whole, in order that they might be able to give their opinion of them, when submitted to a meeting, was, in any degree, reprehensible. When the Fiscal, upon information of the Dundee address, got a warrant to apprehend me for my concern in it; I narrated to the Sherriff my whole concern in the matter, and he assailed me at once. But allowing that I had really been chargeable in the matter of the Dundee address, would it not be both ungenerous, and unjust, after citing me as a witness on the part of the crown, carrying me to Perth, and inclosing me with the other witnesses a whole day, and after all, to bring me in as a party, upon the evidence of the very witnesses with whom I was so shut up, and consequently exposed to converse freely with them on the subject, being made to believe, that nothing I might then reveal, supposing I had been criminally concerned, could ever come against myself.

It would be unjust in the court to admit such an unprecedented attack on any man; and it is hoped, that they will not indulge the public prosecutor in this; the more so as the whole of this business is to be brought under the review of parliament.

As to the next thing, the hand-bill by which some General Convention is said to have been called, though I know of no such meeting called by that bill: the prosecutor knows well, that he can neither instruct that I was the author, nor, in any degree, the publisher of it. And though I had been both, it is not possible for him to prove that I could be guilty of any crime in giving warning to my country of its danger, or in calling them, to demand, in a constitutional manner, rights which it cannot be denied have been wrested from them, as appears from Wharton's motion in the house of commons, which I beg leave to read.

“ Mr. Wharton rose to make his promised motion. We heard, he said, on every side, of the glorious revolution in 1688, and of the constitution, as settled at the glorious revolution.

" It was a note which he had always listened to with pleasure, and he repeated it himself with rapture.

" But what was the rational foundation of our satisfaction at the recollection of the glorious revolution?

" It assuredly was not, that the possession of the throne, and the regular hereditary succession to it, were at that time disturbed and interrupted. It was not that we expelled one king and one family, and appointed another king and another family in their room. The necessity of such changes was at all times to be deplored: and the events themselves could only be justified by the necessity.

" The only rational foundation of our approbation of that revolution must be, that at that time such principles were confirmed, and such wise and wholesome provisions made for our constitutional security and happiness, as might prevent all future necessity for a similar revolution.

" Whoever approved of that revolution, declared at the same time, that the constitutional provisions then obtained were wise and wholesome provisions; that they were worthy objects of a national struggle; that they not only justified resistance but made it meritorious; and that they were cheaply purchased at the price of all the blood that was shed upon that occasion, as well as the dethronement of a guilty king and the extirpation of his guiltless family. But an approbation of that Revolution went still farther. It declared that if by any means,—by force or by fraud, by violence or by corruption—if these wholesome and necessary constitutional provisions should by any means be taken away or frustrated, the same objects would again justify the same national struggle, and the same extremities, unless they could be recovered and re-obtained by more gentle, more peaceful, and therefore more happy means.

He asserted (and said he risked nothing by the assertion, for no man would be hardy enough to deny it, and he pledged himself to prove it in a Committee of the House) that all that was valuable to the people of this country, all the provisions which were stipulated to procure the peace and prosperity, the individual liberty, and the general property of the people of this land, had all been, since the Revolution, taken away—All!

" He must intreat the attention of the House for a few moments, whilst he briefly brought back to their recollection what this country established by the Revolution,—First, To avoid all future mistakes, and that the contract between Prince and People might be clearly understood, the Revolutionists began by altering the oaths of the contracting parties. They altered the Coronation Oath for all future sovereigns in this realm; and they altered the Oath of Allegiance for themselves and for all future subjects. They cut up by the roots the damnable doctrine of *passive obedience and non resistance*, by *emphatically* specifying and ordaining, that the following words of their former oath, 1st W. and Mary, ch. 8. ' I declare that it is not lawful upon any pretence whatever to take up arms against the King,' &c. &c. should not from thenceforth be required, or enjoined.

" It was not so much to relieve the conscience of the subjects, that these words of their former oath were selected, recited and abolished; for no oath of slavery ever did, or ever will, or ever ought to bind a nation, or an individual. It was something worse than perjury or sacrilege to keep an oath of slavery. This alteration was made to prevent the future sovereigns of this country from being misled, as the four preceding sovereigns had been, to trust to a senseless superstition about *Royalty*, which though many persons for their interests have professed, no man of common sense ever entertained.

" Their next care was to provide for the due administration of the Executive Power, and the responsibility of its confidential advisers. They therefore enacted that, 12th William III. ch. 2. ' All matters and things relating to the well governing of this kingdom, which are cognizable in the Privy Council by the laws and customs of this realm, *shall be transacted there*; and ' all resolutions taken thereupon *shall be signed* by such of the ' Privy Council as shall advise and consent to the same.' Thereby guarding, as far as laws could guard, against that accursed engine of despotism, a *Cabinet Council*, or that more accursed instrument, an *Interior Cabinet*.

" Their attention was next directed to the *double representation* of the people; the only possible security for all their other provisions—their representatives in Courts of Justice—the House of

Commons and Juries. They passed over untouched, and left as they found them, the nobility and the church; they were considering the solid and substantial parts of the constitutional edifice, and did not much concern themselves about the *gilding* and the *varnish*. They therefore proceeded to establish the principle of *fair and free*, and *frequent* election of the representatives of the Commons in Parliament, as might be seen by a reference to the Acts passed in the first and second, and third years of William and Mary.

"And having thus, as they imagined, provided for the *real* election of the representative body in parliament, they secured the independence and integrity of that body after its election, by enacting that—'No person who has an office, or place of profit under the King, or receives a pension from the Crown, shall be capable of serving as a member of the House of Commons.' 12, W. III. ch. 2.

"Having thus secured the purity and independence of the people's representatives in Parliament, they proceeded to the other important branch of their representation by Jury; and they decreed, that Juries should be fairly taken, without partiality; and should act freely, without influence. 1st W. and Mary, ch. 2d. They also decreed, that *excessive bail* should not be required; that *excessive fines* should not be imposed; and that *illegal* and *cruel* punishments should not be inflicted: and to secure these objects, they ordained, that thenceforward the Judges' commissions should be made, 'quam diu se bene gesserint, and that their salaries should be ascertained and established;' in order to make the Judges independent of the Crown. 12th W. III. ch. 2.

"Now, all these provisions, (the objects and consequences of the glorious Revolution) would have no value, they would be nugatory and worthless; they would be a mockery; unless they went effectually to obtain and secure to the people of this land, these three important points: First. An honest and *responsible* exercise of the *Executive* Authority—Secondly, *Real*, independent, and faithful representatives of the commons in Parliament.—Thirdly, A fair and impartial administration of justice in the Courts of Law. We who had no predilection for any family

whatever (except as connected with these objects); in the words of our ancestors at the time of the Revolution, did now again—
'Claim, demand, and insist upon all those, as our undoubted *Rights*:
'the true, ancient and indubitable rights, and liberties of this
'kingdom.' 1st W. and M. ch. 2.

" If then, by various means it had happened (as he asserted and undertook to prove in a Committee of this House) that this provisional responsibility of the Privy Council no longer remains; that the election of the House of Commons, is neither *fair* nor *free*, nor *frequent*; that this provisional independence of its members is gone, and that the House at present *swarms* with '*Persons having offices and places of profit under the King, and receiving pensions from the Crown*;' That Juries are not fairly and impartially taken; that they do not act freely and without influence; that excessive bail may be, and has been required; that excessive fines may be, and have been imposed; that illegal and cruel punishments may be and have been inflicted; that the Judges are not independent of the Crown; that Pensions may and have been granted to some of them; and that lucrative offices may be and have been conferred upon others: by which means it cannot be said that their salaries are ascertained and established.

" If these facts were so, he held it to be the duty of all those who, without hypocrisy, praised the Revolution, to endeavour to return us again to our constitutional situation at that period, and to recover those lost, or neglected provisions; that so we might effectually secure to ourselves and to our posterity, what our ancestors endeavoured at the Revolution to secure to themselves and to us.

" He concluded with moving, '*That a Committee be appointed to inquire, whether any, and which of the provisions made by Parliament in the reign of William and Mary, and in the reign of William the third, for securing the responsible exercise of the Executive authority, for securing a real, independent and faithful representation of the Commons in Parliament; and for securing a fair and impartial administration of justice in Courts of Law; whether any, and which of these have by any means been invalidated or taken away: And to*

' consider, whether any, and which of those lost or invalidated provisions may be fit to be re-enacted and restored, in order that the people of this land may recover that situation and security in which they were placed by the glorious Revolution in 1688.'

N. B. It is worthy of remark, that at the time of the delivery of this judicious and Constitutional Speech, no reply whatsoever was made, nor has any sort of notice been taken of it, by Administration, or by those in opposition.

And sure there was no crime in receiving thanks for unremitting attention to duty. I know, indeed, it must have given great pain to the opposers of the Friends of the People to be told, as I shall also prove in their presence this day, that by opposing that wise association, they have brought their country to the very brink of ruin; and who now are entitled to the post of danger so much? But surely no man, unless those, who were so forward in pledging their lives and fortunes for its defence, in his senses will offer the charge of crime, or guiltiness, to an anxious concern for the welfare of one's country, even though imprudently expressed, which, however, I do not think has been the case.

Much indeed is averred in the Indictment, with the design of criminating the Convention; but upon the most vague grounds. I am ready to answer for the Association of the Friends of the People, and for all their proceedings from first to last, but at present, I am indicted, only as an individual. Let me be fairly indicted, as responsible for that Convention, and I shall not decline to answer to any Indictment; knowing well that the British Convention is fully able to justify its proceedings through me, or any other person charged in their name. But, upon no principle of equity, or justice, can any body of men, regularly associated, be condemned, in any court, if not legally present. The Public Prosecutor, as usual of late, has frequently, in this Indictment, termed the Friends of the People, collectively, and individually, seditious and evil disposed persons;—having purposes inimical to the happiness of the people, and to the peace

and happiness as well as to the Constitution of the country, and too plainly indicating the same rebellious maxims which have governed, and do still govern the proceedings of the Convention of France, &c.

That the British Convention, however, is a seditious and unconstitutional meeting, remains to be proved; and cannot be proved, till the Legislature declare them such; or until they shall be cited, tried, and condemned according to law. Till one or other of these events, they are to be held, in this Court, and in the opinion of the public, as a Constitutional Society; whatever the Lord Advocate may alledge to the contrary. And, therefore, as the Friends of the People must be considered in this Court, a Constitutional, legal, or allowable society, equally as any other society, (*presenting responsible persons of their number amenable to the laws of their country, for all their proceedings,*) every thing averred against the British Convention, or their delegates, in my Indictment, must go for nought in the present prosecution. For this same reason, and upon the same principle of justice, every thing laid to my charge in this Indictment, as said or done by me in the meetings of that Society, falls also to go for nought; unless it could be proven that I did things unwarranted by the Association. In such case, if any thing so done by me in their meeting, could be proven to be contrary to law, then, as in justice, I would be liable singly; but not till then.

To go into the Prosecutor's views in this Indictment, would be to unhinge the very constitution of the country, and nothing but the most palpable inattention to the fundamental principles of the British Constitution, or a seditious design to overturn it, could have dictated an Indictment such as this which I now hold in my hand. Should such a proceeding be allowed, there is an end of Liberty:—It would be a revival of the Conventicle prosecutions with a vengeance. The Lord Advocate would only have to declare *any association of the people*, a number of seditious and evil disposed persons; and to get a jury to find some obnoxious person among them guilty; and then every meeting of the kind would be deemed illegal and might be dragooned, as in the days of our fathers, without the round-about way of obtain-

ing a declaratory Act of Parliament. He might next, for instance, declare dissenting meetings illegal, and of a seditious tendency.

If then, My Lords, every thing in this Indictment, founded on the insidious and false assertions against the British Convention, falls necessarily to be expunged, and it must be expunged, unless you are determined to condemn me, at the expence of that very constitution, by authority of which you sit there this day; and which proposition I challenge all my prosecutors to impugn. What remains in the Indictment against me? Little indeed against me, but much to my credit and honour. These matters being left out, which it concerns the Convention to vindicate, there remains nothing more charged against me, that I need to waste your time in animadverting on. No idea of guilt, or even of fault, can arise in any man's mind on my conduct towards the civil magistrate, in the case referred to.

If the officer of a civil magistrate shall come to me and desire me to go out of my own house, I have a right to ask the reason; and if he can shew me no warrant, I may turn him to the door as an officious intruder. If his master shall deign to come himself, and make the same demand, I have a right to ask him his authority likewise, and to treat him worse than his servant, if he shew no authority; for no magistrate has any power but what the law gives him; and even that power, which the law does give him, he must likewise exercise, not as he chuses, but only as the law directs. The king's proclamation itself would be of no more force against me, than one from the Provost of Edinburgh, and that would be nothing at all, unless warranted by law. Nevertheless, it is false, and altogether unfounded, that I any way contravened the proclamation of the Sheriff and Provost; though indeed I did consider it an unwarrantable, unconstitutional, and oppressive act; and which they had no authority to emit.—When apprehended by the warrant of the Provost, and carried before the Council, for, I knew not what, though I afterwards found that it was for my advertisement of the 10th, they were satisfied that my advertisement was for calling a different meeting altogether, from the meeting which they had taken upon themselves

to proscribe; and they dismissed me, after giving me my dinner for my trouble. The advertisement was as follows:

"*Friends of the People.* The General Committee of your Societies here, which should have met as usual on Thursday last, was necessarily postponed till Thursday first, by reason of the sittings of the Convention. The British Convention being now constrained to adjourn to the place appointed for its meetings of emergency, the General Committee of the Friends of the People in and about Edinburgh, are requested to assemble in a house belonging to Mr. Skirving, their Secretary, formerly denominated the Cock Pit.

"As our meetings are perfectly Constitutional, and our proceedings such as we dare avow, the Meeting will be held at 12 o'clock, noon.

"A full Meeting is entreated, for the purpose of adopting measures for defraying the expences of the delegates while attending their duty in the Convention. W. SKIRVING."

Edinburgh, Dec. 10. 1793.

Before coming away, the sitting Magistrate did indeed signify, that they extended their act of supremacy against that meeting, as well as against the British Convention; and this new declaration I promised to read to the meeting when assembled, and leave it to themselves to judge what regard was due to it. I went accordingly, next day, to fulfil my promise. And, knowing the irritation of the people's minds at the bashaw-like treatment which had been given to the British Convention; and that they would not receive with respect the message I had received for them, in a hurry, before leaving my own house, I wrote the motion and proposal, which is narrated in the Indictment, [See Page 16.] and which every person, not altogether blind with prejudice, must consider as a prudent proposal; and intended solely to prevent the collision of animosity, betwixt citizens and their magistrates.

When I came with my worthy friend Mr. Charles Brown, from Sheffield, with whom I had met accidentally, I found the meeting house blocked up with an armed force; and seeing the people gathering fast, we made haste, for fear of tumult, *which extraordinary measures never fail to produce in a populous city*, to read,

first the declaration of the magistrates, and then the above proposal. Upon the same being forced from me violently, but by whose orders I know not, we left them with it and set off. It was very fortunate we came off so soon; for the people were assembling from all parts so quickly, that their number would in a few minutes have been so great, as to embolden them to inquire and judge who were right and who were wrong in so shameful an affray. For this service to the magistrates, a number of town officers and soldiers were hurried after us, and seizing us, walking upon the street *peaceably*, and led us, as condemned criminals, through the most public street which, by the tumultuous running of the people from all quarters was completely alarmed, for every window was crowded with heads, the same as during the execution of a criminal. They were conducting us to the guard house. when Mr. James Laing, one of the town clerks, countermanded the procession to the council chamber. And after a consultation of the magistrates held with the sheriff, crown officers, and the assessors, we were dismissed simpliciter.

Now upon what data can guilt be charged against me from any part of the whole of this procedure. It is impossible. Was the Lord Advocate ever so anxious to affix criminality upon me in these transactions, he would not be able. But although my guiltiness might be evident, what right has he now to establish it, after the magistrates have judged and acquitted me?

Upon the whole then, if the matters charged in the libel, taking in the circumstances attending them, or taking them up simply in themselves, as laid in the indictment, amount to the crime of sedition, then sedition must be a very innocent thing indeed. Nay, if my conduct from beginning to end in this business is sedition, I glory in it, as the highest service of my life; and judge such sedition the highest virtue, because disinterestedly pursued to promote the public welfare. But in regard your lordships have again, and again, determined sedition to be the worst of all crimes, and including every crime destructive of society, and have again and again for this very crime inflicted punishments, in the eye of some even worse than death itself, I must insist, that as neither the crime itself, nor the law defining it and declaring its penalty are stated in my indictment, it is illegal, and ought therefore to be

discharged—and, especially, in regard that possibly my jury, taking up the crime of sedition, as being merely the imprudently blaming the measures of administration may think it very expedient and necessary to find me guilty, with a view, in the present circumstances of the country, to strengthen the executive government, and to cast the balance of power into the hands of those, whom possibly, on other occasions they would check, but at present judge it proper to trust to their prudent and merciful exercise of discretionary power. Some juries of late are said to have acted from such motives; and we trust, for the sake of justice, they have repented that they left to others the judgment which they were bound, by the oath of God, to render to the accused themselves. And finally in regard this high crime of sedition is said to be punishable by acts of parliament, as in the charge upon the Indictment, (and indeed no punishment can be inflicted by any other authority.) It is therefore indispensibly just, and necessary, that these should be precisely specified: or that the libel, as so laid, cannot be proceeded on, but is altogether futile and irrelevant.

If the term Sedition be in any statute of our Law, then it will speak for itself. It will be the major of the proposition in the statute; and the act or acts of the minor, will sufficiently illustrate what the Legislature intended by the crime so termed; and if the acts, with the criminating circumstances of intention, described in the Statute, or Statutes, be the same as those with which the Prosecutor has charged me, I will necessarily be condemned. But if no such law is stated upon the authority of which alone this Court has power to act, and the Public Prosecutor will not point out any, in this case this Indictment must be declared without foundation; for no libel is relevant, which is not a transcrip of some Statute, and that both of its major and minor. For, where no law is, there is no transgression. That is to say, the libel ought to state the crime generally—the law which makes it a crime—and then the overt acts, which being proved are the transgression of that law, or laws, and which therefore constitutes the general crime libelled.

None of these are done in this Indictment; and indeed it must be evident to the meanest capacity, that this very unprecedented libel could not have any legal Statute for its data and pattern;

for what Legislature, possessed of any political wisdom, could be so weak as afford a model for such a performance.

It would appear, that the Lord Advocate by one blow would cut off all communication of sentiment among the people. But surely your Lordships will not support the doctrine, that exchange of sentiment among the people, or mutual discussion of argument in society, the natural exercise and employment of those powers bestowed by the Creator, is sedition; or any sort of crime. Association is the natural inheritance of the brute creation; and would the Lord Advocate deny the blessing to his fellow citizens? And if this privilege cannot be denied to any, why would he affix guilt to that mode of exercising the privilege, which his brethren think best adapted for the purposes, for which it is vouchsafed by the Creator. It is an observation which I shall never cease to make, when I have opportunity, that the grand political consequences of the state of slavery, and that of liberty or native effects of their opposite principles are these: namely, That arbitrary tyrannical power separates the man from his brother, and infuses the selfish unfeeling principle more and more in the heart; but the principle of liberty, that true principle which Christianity implants in the soul; the principle of liberty which Christ has restored, and by which he makes men free, is the loadstone which draws souls together; and establishes the social band which is the source of all morality. And accordingly we are assured, by a testimony which cannot deceive, that, as a certain token of the approach of those halcyon days, which we hope for, the influence of the uniting principle shall be remarkable. It was the signal, and the mean of our fathers deliverance from popish domination. Its effects are now more wonderful; and, being in the present case altogether voluntary, and less constrained by party influence, promises a still more glorious deliverance: a deliverance, not from one tyranny to embrace another, but a deliverance from the principle of tyranny itself; and which will establish the love of mankind. You would do well therefore not to be found counteracting the work of Christ in the earth. It may be the day of his coming, which was to be thus ushered in. "Then they that feared the Lord spake often one to another, and a book of remembrance was wrote for them that feared the

and, and thought upon his name."—It may be the day, the awful "day that shall burn as an oven; and all the proud, and they that do wickedly shall be stubble." Have they not been stubble in a neighbouring country? And should not you be instructed by the striking lesson before your eyes? If the Public Prosecutor then cannot invalidate these objections, which I have stated against the relevancy of the libel, and you are satisfied in your own minds, *1st*. That as I cannot be tried upon accusations made against a long allowed Society, which has not as yet been tried, and legally convicted, unless I had been cited before you, as the proper and offensive representative of that Society, therefore the present Indictment against me is illegal; and must be dismissed. *2^d*. That it ought to be laid aside; because neither the crime, in the major proposition of the Indictment, nor the acts charged against me in the minor, are instructed to be referable to any Statute, cognizable by this the Court of Justiciary. And, *3^d*ly, That though you might think the Jury intitled to proceed in this trial, upon the idea which they must have, in their own minds of the word Sedition; yet, as they know not the idea, which the Law Judges have in their minds of this crime, no Statute being libelled on, therefore by proceeding, they might be guilty of the grossest injustice; because, they might find me guilty of what they would call Sedition; and their idea of Sedition, being very different from that which the Lords of Justiciary have affixed to it in their minds, viz. that it is the worst of all crimes, and including all other crimes whatever, they might adjudge me to the utmost rigour of punishment; while they only intended to say, that I deserved some small check, to make me act more wisely for the time to come.

If it is true, what has been affirmed of the citizens upon some late Juries, that they sought to petition for a mitigation of the sentence inflicted in consequence of the verdicts, which had in this manner been given, because they judged them altogether disproportioned to any idea which they had formed of the crime submitted to their cognizance; it follows that they injured their suffering brethren, *most unjustly*; and it can be no rational salvo to their mind, that they acted according to their light at the time; and that the extreme rigour of the sentences is chargeable

not against them, but against the Judges; and that for this obvious reason, that, in effect, they actually and legally adjudged their brother to be possibly ten times more guilty than they believed him in their conscience to be, since they exposed him to ten times more suffering than they thought he merited. Had they made a point to have the same idea of the crime charged that the Law and the Judges of the Law would have of it, and this is the first duty of every Jurymen, they would then have found a very different verdict; they would have found that he did not merit such a degree of punishment; that is to say, they would have found that he was not guilty of the crime libelled, as meriting such punishment.

This, therefore, I trust will be both a warning and a lesson to Juries, that they wisely consider, first, what is the nature of the crime indicted, and the punishment that will be inflicted, if the same shall be proven. And then whatever number of smaller crimes may be proven against the Pannel, if the whole of these together do not merit, in their judgment, the punishment to be inflicted, they must find the Pannel at their bar not guilty of the crime indicted; that is to say, not deserving of the punishment adjudged to the crime charged in the Indictment.

"The original intention of trials by Jury was to guard against the partiality and injustice of magistrates and judges. The county courts, the members of which were the ancient judges of this country, became so exceedingly corrupt, that Juries were invented to remedy the many enormities and oppressions daily committed by these courts. Formerly, the Juries of Scotland were impannelled in civil as well as in criminal actions. They are now limited to the trial of high crimes and misdemeanours."

"It is a common notion, that jurymen are judges of the *fact* only, and not of the *law*."

"It has, perhaps, been too much fostered by the injunctions of judges and magistrates. It is exceedingly natural, that plain simple jurymen should look up with veneration to the high rank, and superior abilities of those men who are appointed by their sovereign to dispense justice over the nation. For this reason it is, that the English judges are so extremely solicitous not to inculcate their own opinions on the minds of jurymen, but

to leave their determinations solely to the dictates of their own consciences."

'To what end,' said Lord Chief Justice Vaughan, 'are the jurors challenged so scrupulously to the array and poll? To what end must they have such a certain freehold, and be *probi et legales homines*, (good and honest men,) and not of affinity with the parties concerned? To what end must they have, in many cases the view, for their exacter information chiefly? if, after all this, they implicitly give a verdict by the *dictates* and *authority* of another man, when sworn to do it according to the best of their own knowledge? A man cannot see by another man's eye, nor hear by another man's ear; no more can a man conclude or infer the thing to be resolved by another's understanding or reasoning; and, though the verdict be *right*, which the jury give, yet they, being not assured it is so from their own *understanding*, are *forsworn*.'

Sir Matthew Hale, in his Pleas of the Crown, remarks, 'That it is the conscience of the jury that must pronounce the prisoner *guilty* or *not guilty*; for, to say the truth, it were the most unhappy case that could be to the judge, if he, at his peril, must take upon him the guilt or innocence of the prisoner; unhappy also for the prisoner; for, if the *judge's opinion* must rule the verdict, the trial by jury would be *useless*.'

'Though the proper business of a jury be to inquire into the truth of facts, it is certain, that, in *many* cases, they judge of matters also of *law* or *relevancy*. Thus, though an objection against a witness should be *repelled* by the court, the jury are under no necessity of laying greater stress on his testimony than they think *just*; and, in trials of art and part, where special facts need not be libelled, the jury, if they return a general verdict, thereby make themselves truly judges of the *relevancy*, as well as of the truth of the facts deposed upon by the witnesses. A general verdict is that which, without descending to particular facts, finds, in general terms, that the pannel is *guilty* or *not guilty*.' (Ersk. inst. p. 741. § 101.) The same author remarks, that M'Kenzie 'disapproves of this institution of juries, because it is hardly possible, in many cases, to separate the proof of facts from their relevancy, the last of which is frequently of

“ too high a disquisition for such as are not learned in the law.
 “ But no man’s *life* or *fortune* ought to depend upon too refined
 “ reasoning; and, if discerning the *nature* of crimes be beyond
 “ the *reach* of juries, which are presumed to consist of men of
 “ common understanding, how can our *criminal law* be account-
 “ ed a *rule* by which every *artificer* and *farmer* ought to *square*
 “ his conduct?” *Ibid.* p. 738.

“ From these most respectable authorities, and many others
 that might, if necessary, be produced, it is evident, that jury-
 men, by the laws of their country, are expressly constituted
 judges, in all criminal trials, both of the *law* and of the *fact*.
 I shall, however, hazard a few arguments, derived from the na-
 ture and intention of trials by jury.

“ To prevent the misapplication of law by judges and magis-
 trates, was one of the great ends for which trials by jury were
 originally devised by the wisdom of the legislature. If, there-
 fore, the power of judging of the law, as well as of the fact,
 were annihilated, the very intention of the legislature would be
 defeated; because the courts, and not the jury, would then be
 the sole judges. Intention is the essence of crimes. The facts
 libelled may be distinctly proved. But if, from particular cir-
 cumstances, the jury are convinced in their own minds, that the
 pannel either had no intention to commit a crime, or that the
 crime is not of so heinous a nature as to merit the punishment
 concluded for in the indictment, in all cases of this kind, the jury
 have not only a right, but they are bound, by the spirit of their
 oaths, and by the laws of God and man, to find the pannel *Not*
Gilty of the crime laid to his charge. When a pannel is libel-
 led for murder, and the actual slaughter is proved against him;
 yet, if the jury are satisfied that he had no design to commit the
 crime, it is their duty to *acquit* him; because, on this supposi-
 tion, the intention is wanting, and, of course, the crime of mur-
 der has no existence. Again, suppose a culprit to be indicted
 for robbery, or any other capital offence, and that the facts are
 clearly proved; still as Mr. Erskine judiciously remarks, if the
 jury are convinced in their consciences, that the chief witnesses
 are either perjured, or that their evidences should not have been
 admitted, their testimonies ought to be entirely disregarded.

" Besides, if the powers of jurymen were limited to facts alone, why are exculpatory evidences permitted? The facts libelled may be fully proved. But the pannel, in alleviation of his guilt, may bring such evidence as will either alter the species of his crime, or convince the jury of his innocence. When a jury are judging in a case of this nature, they not only deliberate concerning the two kinds of evidence, but they consider the nature of the crime, and the punishment that ought, or ought not to be inflicted. In all such cases, the jury must necessarily determine both the law and the fact.

" I know it to be the opinion of many jurymen, that, after the court admit a *relevancy*, they are bound by their oaths to find the libel either *proved* or *not proved*. But these gentlemen should consider, that their business is to give a verdict of a very different kind. They are to judge both of the criminality of the culprit, and of his exculpatory evidence. The words, *proved* or *not proved*, should be forever banished from the verdicts of juries. A relevancy may be found, when the jurymen, who hear the indictment impugned, are of an opposite opinion from the court. A crime may be libelled, when the facts related in the indictment, though completely proved, do not constitute the essence of the crime charged. Hence, whenever the minds of jurymen are convinced that a relevancy has been improperly found, their verdict, however the proof may stand, should be *Not Guilty*. Indeed, the expressions, *Guilty*, or *Not Guilty*, ought alone to be employed in verdicts. They are liable to no ambiguity, and never can embarrass a court."

" It is generally thought, and the maxim has received great support from practice, that, when a jury find a pannel *guilty*, but recommend him to the *mercy* of their sovereign, the culprit must either be pardoned, or receive a milder punishment than death. The unhappy fate, however, of James Andrew, who was lately hanged in Edinburgh, though he had, in the strongest manner, been recommended to mercy, by the unanimous suffrage of his jury, must tend to remove this prejudice, and make jurymen very cautious of their conduct. When a majority of a jury believe in their consciences, that a culprit, though the crime libelled should be proved, does not deserve to be cut off

from human society, by the ultimate punishment of the law, they should uniformly give a verdict finding the pannel *Not Guilty*. This is a high privilege, intrusted to you by the laws of your country, and you cannot be too anxious to prevent its infringement or violation. Consider, the moment you desert a pannel by an indecisive verdict, your powers are at an end. Bestow, therefore, that mercy which you recommend, and which you think the culprit deserves, while it is in your power. Never trust to future contingencies of any kind; for, the highest orders of men may have prejudices; a thousand fatal accidents may happen; misrepresentations may be given; the opinion of courts may not always coincide with that of the jury; even negligence of office has deprived men of existence after the mercy of the sovereign had been obtained."

It was for this reason that I objected to the trial of the relevancy till my Jury was impannelled, and that I shall yet bring the previous question under their review; if you shall at present give an unfavourable judgment, because I shall consider your doing so as prejudging my cause, in the most important article, and in all of which my Jury alone are entitled to judge.

If then, Gentlemen of the Jury you are of opinion with me, that with regard to the first article charged, the Dundee paper, I have already been judged, and at any rate retained a witness against the person condemned for it; and which crime, in the opinion of all the world, is now also sufficiently atoned for, by the punishment already inflicted. If you are of opinion, as you must be, that I cannot be criminated, merely for being a member of the British Convention, unless that Convention was found guilty, which cannot be found in this present trial, because I am not before the Court as responsible for the charges brought against it. And lastly, my Lords; As the charges respecting the contravening the authority of the Magistrates of this city, is a matter entirely betwixt them and me; and as they have not joined the Public Prosecutor in this Indictment, and indeed could not have done so, the matter having been already fully compromised betwixt us, you cannot avoid absolving me from the present charge. There not being a single thing more in the Indictment against me; you are my sole and Independent Judges, my Coun-

try. No Court can restrict or controul you. The Lords of Justiciary themselves are bound to declare *that* to be law which you finally determine as your verdict.

If, however on the other hand, you are of opinion, that the Indictment as laid is relevant, I am ready to enter upon a discussion of every charge against me. Let us just now proceed to make up before you the defect, the constitutional defect of the Indictment. Let the Prosecutor state in Court, his meaning of the word Sedition, his idea of that crime, as laid to my charge; what Statutes it is a breach of, and the idea of criminality which the Legislature has affixed to this crime, by the punishment annexed to it; or as the charge at the instance of the Prosecutor states it, *the pains contained in the Acts of Parliament*. I am far from wishing to escape trial. I rejoice to think, I will now have an opportunity to remove the public prejudices entertained against me, and that now my country shall recognize me to be, what my heart tells me I am, its disinterested well-wisher.

Permit me then, Gentlemen of the Jury,* to lay before you my own private opinion of the crime of Sedition, the opinion which was expressed from the Bench, and to intreat you to fix some precise idea of the same as the standard by which to measure the degree of criminality, in the actions, with the circumstances attending them, which are charged in the Indictment.

All crimes against the state may be divided into three classes; Treason, Sedition, and Petty Misdemeanour. But in order to fix guilt on the acts comprehended under these several heads, two things must enter into the description of them. 1st Acts comprehended in the term of misdemeanour must in their consequences, or immediate effect tend to stir up sedition. Those again, under the description of sedition, must in like manner run into treason. 2^d These overtacts must severally appear to be performed, with the evil intention to promote higher crimes against the state. For example, a person may be bound in duty to say and do things directly contrary to the present government of his country, and which, in their immediate consequences and native tendencies, are evidently calculated to withdraw the affections of

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* Part of this pleading was delivered before the Jury alone; but the whole is given here, that it may be seen at one view.

the governed from their governors. But here it will be admitted, by a Christian court at any rate, that one must obey God, rather than man. And consequently it must necessarily follow that, as a person, so situated, could not be indicted for any criminal intention, whatever tendency the things which he did conscientiously, might have to alienate the affections of the people from their rulers, no crime could, in justice, be fixed on him. Would the Prosecutor say, that the following anecdotes of duty and patriotism, which have been preserved as examples of that liberty wherewith Christ hath made his servants free were sedition? I shall read a few of them; instance the Prophet *Isaiab*, chap. ix. ver. 13. "For the people turneth not unto him that smiteth them, neither do they seek the Lord of hosts:—14. Therefore the Lord will cut off from Israel head and tail, branch and rush, in one day. 15. The ancient and honourable, he *is* the head; and the prophet that teacheth lyes, he *is* the tail. 16. For the leaders of this people cause *them* to err; and *they that are* led of of them *are* destroyed." Chap. iii. ver. 12. "*As for* my people, children are their oppressors, and women rule over them. O my people, they which lead thee cause *thee* to err, and destroy the way of thy paths. 13. The Lord standeth up to plead, and standeth to judge the people. 14. The Lord will enter into judgment with the ancients of his people, and the princes thereof; for ye have eaten up the vineyard; the spoil of the poor, *is* in your houses. 15. What mean ye *that* ye beat my people to pieces, and grind the faces of the poor? saith the Lord God of hosts." Chap. i. 21. How is the faithful city become an harlot! it was full of judgment; righteousness lodged in it; but now murderers. 22. Thy silver is become dross, thy wine mixed with water. 23. Thy princes *are* rebellious, and companions of thieves: every one loveth gifts, and followeth after rewards: they judge not the fatherless, neither doth the cause of the widow come unto them. 24. Therefore saith the Lord, the Lord of hosts, the mighty One of Israel, Ah, I will ease me of mine adversaries, and avenge me of mine enemies: 25. And I will turn my hand upon thee, and purely purge away thy dross, and take away all thy tin: 26. And I will restore thy judges as at the first, and thy counsellors as at the beginning: after-

ward thou shalt be called, The city of righteousness, The faithful city. 27. Zion shall be redeemed with judgment, and her converts with righteousness."

Ezekiel, Chap. xxxiv. ver. 9. "Therefore, O ye shepherds, hear the word of the Lord; 10. Thus saith the Lord God, Behold I *am* against the shepherds; and I will require my flock at their hand, and cause them to cease from feeding the flock; neither shall the shepherds feed themselves any more; for I will deliver my flock from their mouth, that they may not be meat for them. 20. Behold I, *even* I, will judge between the fat cattle and between the lean cattle. 21. Because ye have thrust with side and with shoulder, and pushed all the diseased with your horns, till ye have scattered them abroad; 22. Therefore will I save my flock, and they shall no more be a prey; and I will judge between cattle and cattle. 23. And I will set up one shepherd over them, and he shall feed them, *even* my servant David."

Would the Lord Advocate take upon him to characterise these passages, as sedition? Would he impeach the Servants of the Most High with this crime. This would be to impeach our Lord Jesus Christ himself, who not only commanded his servants to testify such things against the evil rulers of the day, but corroborated what they had done by his own personal deed as we read in John.

John ch. x. ver. 7. Then said Jesus unto them again, Verily, verily, I say unto you, I am the door of the sheep 8. All that ever came before me are thieves and robbers; but the sheep did not hear them. 11. I am the good shepherd: the good shepherd giveth his life for the sheep. 12. But he that is an hireling, and not the shepherd, whose own the sheep are not, seeth the wolf coming, and leaveth the sheep, and fleeth; and the wolf catcheth them, and scattereth the sheep."

The true definition of sedition then must be, that which our own Scots statutes give under the head, of leasing-making against the government of the country, with a bad intention. Speaking the truth can never be sedition; for truth, you know, is no libel. If his Lordship means and indicts, in the word sedition, a higher crime than that in our statutes under the head of

leading-making, he ought now to declare candidly what he intends by it; and the court ought to fix him down to such precise definition; and they must also declare the precise statute, or statutes, of which his crime, so defined is a breach; for without stating the precise standard, by which the jury are to try my conduct, how can they judge whether I have transgressed? and how far? and how am I to justify my conduct, against the charge of having transgressed?

I know no law, either of God, or man, that I have transgressed, in the matter of reform. What is the law which his lordship thinks I have transgressed? let him now declare it, if I have; and I will yet pass over the informality of its not being stated in the indictment; though, as I am no lawyer, it would be taking me rather upon too short warning. But if his lordship has no law by which to try my conduct, except his own opinions, and has raised this process against me, trusting that a jury in his sentiments will have the same opinion of my conduct, that he has formed, I will protest solemnly, that I cannot be tried but by the laws of my country; and as no law nor statute is stated in the indictment as transgressed by me, I protest that my jury may not proceed to find a law in their own breast by which to try my conduct; because I hold it a privilege, of which a free man can never be deprived, that he may do any, and every thing not proscribed by the laws of his country. I cannot know the private sentiments of my judges, by which I would, in that case, be obliged to regulate my conduct, if his opinion was my law. And what is slavery but this?

Lord Justice Clerk. There is one thing I want to know, he says, he was called as a witness;—was he examined?

Lord Advocate. Palmer was brought to trial at Perth, and Skirving was included in the list of witnesses; but it was expressly directed, that he should not be called as a witness, unless it was found absolutely necessary to the conviction of Palmer.

Lord Justice Clerk. That satisfies me;—I always understood, that examining a man as a witness, was an absolute preventative against his being called upon afterwards, by a criminal prosecution: but he was not examined, and therefore that satisfies me.

Lord Epsgrave. The Pannel at the Bar is charged with Sedition, and he has declined to take the benefit which the laws of his country afford to every criminal; he did not think proper to apply for counsel; if he had, he would have received that indulgence; he is now brought before a Jury of his country, and he will be allowed to bring any evidence he thinks fit, to alleviate the charges against him. My Lord, I cannot think there is the least ground to doubt of the relevancy of the Indictment. The Gentleman says, it does not mention any particular act upon which it is founded—it is very true it does not, but he certainly does know, or may know, that the law of Scotland is founded on many grounds, besides that of Acts of Parliament; there are many things in it which are established by usage,—by the laws of God,—by the dictates of the consciences of men; and, I believe, if there is a crime apparent to the sense of every man, this crime, under the name of Sedition, is as well understood by every one in this assembly, as by any one of your Lordships. I don't know what sort of government this Gentleman would wish to establish in his new generation of government; but, I believe, never any government existed, which did not think it necessary to punish Sedition among the people, which might perhaps go the length of overturning the government, which it does not always do;—it may have the tendency of an attack upon government itself, according to the nature of the particular charges; but to say, that an Indictment charging Sedition, is not relevant without an Act of Parliament, is contrary to usage, and contrary to law.

The first charge is, that of accession to the publication of Palmer's Hand Bill. As to that, a Jury of the country did find, that it was a Seditious Libel. Had this Gentleman been admitted a witness there, I certainly would not have allowed him to be libelled at the Bar for that offence; but he was not examined, though he was cited as a witness.

The Gentleman says, it is necessary that the British Convention should be first tried, and convicted, before he can be charged, as an individual, with the acts charged to have been done in that Convention. I don't understand that the Convention is a body corporate, but a Convention of individuals; we shall

hear whether it was a Convention met for bad purposes or not; and whether this Gentleman was one of them. Suppose a meeting of persons assembled under any name, and they should resolve amongst themselves, that they would set fire to the city of Edinburgh; if the public Prosecutor lays hold of one of the persons that are present at that resolution, would it be consistent to common sense, that he would have a right to say, I am not the representative of that meeting? you must bring them and try them, before I can be tried. My Lords, it is not necessary that that should be done, if he gave concurrence to what was done in that assembly, that is sufficient.

These people have chosen to follow the example of the French Convention—the resolutions that were come to, in their Society, by order of the same Convention, of which this Gentleman acted as Secretary;—those motions, those resolutions, and those speeches were published in a newspaper, *by order of the Convention, with the concurrence of the Pannel.* That is a circumstance that will merit the consideration of the Jury, and the Court. In cases of forgery, which is one of those crimes, that we punish every day with capital punishments, is one of those things, which is of itself, in its nature a crime; if an hundred, or a thousand persons meet together, they may be able to make the forgery better, but if they use what they forge, if they publish it, and carry it into the world, then it becomes a capital crime at once, though it was innocent while it remained in their chambers. Those Gentlemen meet, and resolve to do this and that, and the other thing, but they did not rest satisfied with that, but they chuse a Gazette of their own, by which means they gain an influence upon the minds of the people; and they order it to be published.

My Lords, taking all the circumstances together, it is, in the first place, for the Jury to decide, whether the acts are proved; or how far they are proved. And, secondly, whether it proceeded *from a Seditious intention, or an innocent intention*—I should be very happy if this Gentleman can bring evidence to vindicate himself. I am very sorry to see this Gentleman at that Bar, after the example of that trial at Perth, and another, which are the only two that have come within my knowledge.

"I am always extremely sorry when my fellow subjects are charged with crimes; but it is my duty, and my country calls upon me to sit here in judgment, upon such offences. I should be very glad, if this Pannel can prove himself to be innocent; but, if he be guilty, whether it is occasioned by a disorder of mind, (for there are public insanities as well as private ones,) or whatever it may, I pity the subjects of it; but, as a Judge, I must conform to the law; every thing will come before the Jury; and the Pannel will have the verdict of his country.

Lord Swinton. If there is any wicked and malicious attempt, by violence, to overturn or disturb the present peace of the country, or hurt the present government, *that* I understand to be sedition; as to the necessity of founding it upon any Act of Parliament, it is not necessary, though it is necessary for Acts of Parliament to try crimes at common law. As to whether the facts in the minor proposition come up to the offence stated in the major, I am of opinion, that all these charges come up, nay, go beyond the crime of Sedition.

My Lords, this Hand Bill calls upon the Landholder, "to consesce with the Friends of the People, lest his property be soon left untenanted: the merchant, lest the commerce of the country be annihilated; the manufacturer whose laudable industry has been arrested in its progress: the unemployed citizen—the great mass of labouring and now starving poor, and, finally, all the *rabble* are called upon by the remembrance of their patriotic Ancestors, who shed their blood in the cause of freedom." Calling upon the rabble! How are the rabble to do it? Can they do it in any manner but by outrage and violence? Is there any other instrument in their hands, but that of outrage and violence?

My Lords, I cannot help taking notice of another thing. "Had certain Gentlemen countenanced this Association last year, instead of pledging their lives and fortunes to prompt a corrupt and ambitious Ministry, to engage in a war which could only bring guilt and ruin on the Nation, we might have been still enjoying uncommon prosperity, and a happy understanding amongst ourselves as brethren. And now, if they will not

"manfully retract that very impolitic step, and immediately join their influence to the only measure which can prevent further calamity, if not anarchy and ruin, their pledge may be forfeited,"—My Lords, what was their pledge? their pledge was their lives and fortunes. If that is forfeited, that is to say, they have forfeited their lives and fortunes, and the Friends of the People will be innocent:—innocent! of what? innocent of taking their lives and fortunes from them: that is the clear language of this paper, and sad language it is. If that does not breathe sedition, I don't know what does. I am of opinion that the libel is relevant.

Lord Dunfermline. The facts stated in the minor proposition, do, in my apprehension, amount in a most aggravated degree to the crime of Sedition; and there can be no doubt, but this libel is relevant; and therefore, it must of course go to the Jury. It is unnecessary to add any thing farther.

Lord Abercrombie. It is the province of the Jury, and of the Jury alone, to judge whether the facts charged in the libel be true, or not. The single point now before us is, whether those facts, do sufficiently imply the charge? My Lord, upon this point, I should be sorry indeed to have the least hesitation, I believe, there is not now present one man possessed of common understanding, who does not concur in the opinions which have been delivered by your Lordships', that, these charges do amount to Sedition, and Sedition of a most dangerous and aggravated nature.

My Lord, before the alteration of the Law of Scotland with regard to treason, I think that the facts charged in this Indictment, might have been laid as treason. Nay my Lord, if a fact, which the Solicitor General stated, should come out in evidence, that the British Convention, as it is called, determined and resolved, that in the case of a French invasion, a Convention of emergencies was to be called of course to assist that invasion; I think, if that be a fact, the Public Prosecutor, might have laid his charge as High Treason; but that is not the charge before us; it is a charge of Sedition only, and I am of opinion it is perfectly relevant.

Lord Justice Clerk. My Lords, after what I have heard, it is impossible to doubt that the fact charged in the major proposi-

tion is Sedition. I am sure after the proceeding trials, and the convictions following upon them, it would be unnecessary for me, to use words to satisfy your Lordships, that Sedition is a crime by the Law of Scotland; and, as to whether the facts in the minor proposition come up to the major proposition, I think this crime might have been laid as High Treason. I am very clear it might, before the Union. I will not say by the Law of England, it would have been tried, as treason; but I am sure it is Sedition, both in Scotland and in England.

(The interlocutor of relevancy read.)

Mr. Skirving. I hold that the Jury are Judges of the relevancy, that they are equally Judges of the Law, as of the fact.

Lord Justice Clerk, was beginning to name the Jury, when *Mr. Skirving* rose again, to object.

Lord Justice Clerk. I will hear you when the first five are nominated, if you have any thing to object.

Mr. Skirving. The objections which I am to make, being of a general nature, and not personal, I wish to state them before any of the Jury are named.

Lord Justice Clerk, proceeded to nominate the first five of the Jury.

Lord Justice Clerk. Have you an objection to these five Gentlemen.

Mr. Skirving. I object in general to all those, who are members of the Goldsmiths' Hall Association. And in the second place, I would object to all those, who hold places under government; because it is a prosecution by government against me; and therefore, I apprehend, they cannot with freedom of mind, judge in a case, where they are materially parties.

Lord Esqgrove. This Gentlemen's objection is, *that his Jury, ought to consist of the Convention of the Friends of the People; that every person wishing to support government is incapable of passing upon his assize.* And by making this objection, the Pannel is avowing, that it was their purpose to overturn the government.

Lord Justice Clerk. Does any of your Lordships think otherwise, I dare say not.

Mr. Skirving. The ground of my objection to these Gentles

men, was not, that they belonged to that Association, by no means; but, because they have prejudged me, in striking my name out of their Society.

Lord Justice Clerk. I remember the same objection, was stated, by Mr. Muir; and was over-ruled.

Names of the Jury.

- Sir Andrew Lauder Dick, of Fountainhall, Bart.
 Sir Hew Dalrymple, of North Berwick, Bart.
 William Nisbet, of Dirleton, Esq.
 Alexander Mackenzie, of Seaton.
 4 David Anderson, of St. Germaine.
 John Caddell, of Cockenzie.
 James Craig, of Setonhill.
 Francis Buchan Sydserv, of Ruchlaw.
 John Milne, Iron Monger in Edinburgh.
 10 William Lamb, Upholsterer there.
 Walter Brunton, Saddler there.
 Andrew Boog, Cuttler there.
 Thomas Armstrong, Coppersmith there.
 David Milne, Merchant there.
 15 Edward Innes, Confectioner there.

EVIDENCE FOR THE CROWN.

ALEXANDER MORREN,

Sworn, examined by Mr. Burness.

Q. Do you remember in the course of last summer, receiving any paper, or address from the town of Dundee?

A. Yes, it was addressed to Friends and Fellow Citizens, from the Dundee Berean Meeting House; I got it from the Post-Office, with a letter from Mr. Palmer, desiring me to get it printed.

Q. Who did you employ to print it?

A. My brother, John Morren, printed it; there were I believe a thousand copies thrown off, but I am not positive. I was

desired to give a few to Mr. Skirving; and I gave a parcel of them a servant girl, that asked for them in his name.

Q. How many were there in that parcel?

A. I did not count them, but I believe there were two quires, or two half hundreds.

Lord Esfegrove. They were printed in half sheets were they?

A. Yes.

Mr. Burnett. Had you any conversation with him, before or after you sent this parcel?

A. I heard that he had received it, but I did not ask him.

Q. Did you see him after you received Mr. Palmer's letter?

A. Yes, I called upon him, and did not see him; and he then called upon me, and I shewed him a copy of the address; he said he would see, if some friends of his would approve of it, he would let me know how many I was to keep; and a man called afterwards and told me I was to keep a hundred copies for the society. I was to have sent them; but the girl came for them, and I gave her two half hundreds.

Lord Justice Clerk. Was the parcel directed to Skirving?

A. No, it was not directed.

Cross examined by Mr. Skirving.

Q. Does it consist with your knowledge, that I knew any thing of that paper, before you mentioned it? Was you desired by the author of it, to take my advice in any respect?

A. No, I was not. I was uneasy that Mr. Skirving, did not call upon me; and therefore I called upon him. I was affronted, that he did not approve of them; for I approved of them very much myself.

Q. How do you know that that girl, and that man were sent by me?

A. I don't know; they came in your name.

JAMES KIDD,

Sworn, examined by Mr. Burnett.

Q. Are you acquainted with Mr. Skirving? *A.* Yes.

Q. Did you receive any paper from him in the course of last summer? *A.* Yes.

Q. (The paper being produced) Was that the paper?

A. I cannot recollect, it was about that size, after reading the first two paragraphs, I destroyed it.

Q. For what?

A. Because I thought the language was too strong; and I did not like it.

Lord Justice Clerk. Was it to that effect?

A. I don't recollect one word of it.

Mr. Solicitor-General. Do you recollect the substance of it?

A. No.

Q. You recollect nothing earthly about it? *A.* No.

Lord Esqgrove. You say it was too strong; what was the nature of it?

A. As well as my memory serves me now, it was something about the Friends of the People, expressed in such language that I did not like it.

Lord Advocate. Since this indictment was served upon the pannel, have you had any conversation with him; with any of his friends, or with any of the other witnesses with regard to what you would say upon the subject?

A. I have had no conversation with him, nor no person has instructed me what to say upon this subject.

Q. I ask you again, have you had any conversation with any of the other witnesses, with regard to the subject of this trial?

A. No.

Q. Was you ever called upon, within this week, to attend a meeting of the witnesses upon this trial?

A. Upon my word I never was.

Q. Do you know a man of the name of Robb, that lives upon the South Bridge?

A. I know the man by sight. I was in his house, about eighteen months ago.

Q. Was you there last Wednesday? *A.* No I was not.

Cross examined by Mr. Stirling.

Q. Did I give you this paper, or did you come and get it from me?

A. I went up to ask the pannel how he did, and he asked me if I had seen that; I asked what it was, and, he said I might take it home and read it.

Q. You said you, destroyed it because you did not like the

language, and that you only read the two first paragraphs. I shall read as far as that, and then ask you a question, (*reads them.*) I want to bring to his recollection, that this was not the paper. Is there any part of what I have read, that you think objectionable?

A. All I can say is, that as far as I read, I did not like the language of it.

Q. Was you a member of one of the societies of the Friends of the People? A. Yes I was once.

[*The petition of the pannel to the court, when apprehended in jail read, see Appendix, No. 1.*]

JOSEPH MACK,

Sworn, examined by Mr. Burnett.

The witness proved the declarations of the pannel,

Q. Was you employed in the execution of a warrant issued, the beginning of December last, by the sheriff of Edinburgh, against the pannel?

A. Yes, I accompanied Frazer and Dingwall, to his house early in the morning, and found him in bed; it was a warrant for seizing the pannel, and such papers, as we should find; we put the papers in two bags, sealed them and carried them to the sheriff clerk's office.

Q. Were they sealed up in the presence of Mr. Skirving?

A. Yes, and they were produced before him, in the sheriff clerk's office.

Q. Was you present when the bag was opened?

A. I think so, but I am not sure of this.

Q. Was Skirving present when the bag was opened?

A. Yes, I am sure of that. The papers that were thought material were put into an inventory, and those that were not, were returned to Skirving; the inventory and declaration, is contained, in one. Mr. Dingwall wrote part of it, and I wrote part of it.

Q. Look at that?

A. This is the general inventory in my hand-writing, and this is the declaration that was made at the same time.

Q. Did you identify those different documents in any way?

A. Yes, myself, the Sheriff, and Mr. Dingwall put our initials upon them; and upon those that were the most particular ones we put our names at full length.

[The witness then examined the papers with the inventory, and substantiated them all except Article 24.]

Cross examined by Mr. Skirving.

Q. When this Declaration 31st July was given in, you was present.

A. Yes I was.

Q. Was I at that time dismissed simpliciter?

A. Yes, you was not laid under bail at that time.

Q. Was I apprehended under a warrant?

A. I believe you was.

Q. You said you was present at the opening of the bags?

A. I cannot speak positively to the bag being opened, before I came, or after.

JOHN DINGWALL,

Sworn, examined by Mr. Burnett.

Q. Do you remember a warrant being issued in December last, against the pannel?

A. There were two different warrants, I remember particularly the last was upon the fourth of December, and was executed on the morning of the fifth, I was present at the execution of it, the papers we found we sealed up in the presence of Mr. Skirving, and put my seal upon one part of the bags, and Mr. Skirving put his upon another; I saw the bags after they were brought to the office; and they were entered into an inventory.

Q. Was you present when the bags were opened?

A. Yes, and Mr. Skirving too.

Q. Did you sign this general inventory or any of the papers?

A. Yes.

Q. Was you present at the declaration to which that inventory refers?

A. Yes, I wrote the first part of it—it was emitted freely and voluntarily, and he was sober and in his senses.

Q. Were the different articles in the inventory authenticated—did you mark them with your initials? **A.** Yes.

[The witness then examined them with the inventory.]

Cross examined by Mr. Skirving.

Q. Do you recollect when I was desired to sign that declaration of the 5th of December, that I said I had made no declaration, and would sign no paper, and when the sheriff substitute did put his name to it, I desired those who were present, to notice, that I had made no declaration and would sign no paper?

A. I do not recollect it.

Lord Justice Clerk. You did not take any thing down but what he said? **A.** No.

MR. WILLIAM SCOTT,

Sworn, examined by Mr. Burnes.

Q. Was you present when these declarations were emitted by the pannel?

A. Yes, they were free and voluntary, he was sober and in his senses.

Q. Was you present when the bags were opened?

A. Yes, and the pannel was present—an inventory was made out of them, and authenticated by the persons present.

[The witness examines them with the inventory.]

Lord Advocate. Had you occasion to attend the sheriff and magistrates upon the 5th and 6th of December last?

A. Yes, on the evening of Friday the 6th, we having heard that the British convention had a meeting somewhere on this side of the town,—I went with the sheriff and magistrates, and found them assembled in Lady Lawson's garden, about 7 or 8 o'clock, I went in, and I observed the pannel and several others whom I knew; the chair was then empty, whoever had been in it before, and there was a call to the chair. Mr. Margarott took the chair. The magistrates called them to be dispersed—Margarott and others said they were met for legal and constitutional purposes, and they would not disperse till they were compelled by force; and desired us to hear Mr. Gerald's speech, who had been speaking before we came in, and the magistrates told them that nothing of the kind would take place. There was then a general call for Mr. Margarott to take the chair,

and Mr. Gerald to go on. Mr. Margarott said, he would not leave the chair till he was compelled. Mr. Davidson took him by the hand, and he then left the chair; upon this there was a call for Gerald to take the chair, which he accordingly did, when Mr. Davidson required he would leave it, and insisted upon their dispersing.

Q. Did you hear what they were met for?

A. Yes, that they were met upon some business relative to petitioning the king upon some subject. Gerald likewise refused to leave the chair, till he was compelled; Mr. Davidson said, he supposed the same compulsion would serve him, as had done Mr. Margarot—he took him by the hand, and he left the chair. Then, Mr. Skirving called upon some one to take a protest against the sheriff;—he called for a notary—but no notary appeared: somebody put them in mind that they were permanent; and said, they would keep this in view though they were dismissed now—they would remember, that they were a permanent convention, or words to that effect.

Q. Do you know the house?

A. Yes, it was at Mr. Laing's a wright, in a work-shop belonging to him. The pannel had been apprehended the day before—was examined by the sheriff, and had been admitted to bail; he was apprehended as being a member of that convention.

Cross Examined by Mr. Skirving.

Q. Did not you obtain a warrant from the sheriff to apprehend me, upon a petition given in by you, upon 31st July, relative to a paper published from Dundee? A. Yes.

Q. Did not your petition request the sheriff to commit me to prison?

A. It was the very purpose of the application.

Q. Was I not dismissed simpliciter on examination, and was not committed to prison till 8 or 10 days after, when I attended again upon a citation of your own?

A. No, he was taken, but it did not appear that he was the author of it, he was let to pass, but upon finding that there was a correspondence carried on between him and Palmer, he was again taken up and examined; and a letter of Palmer's being

found in his pocket, he was committed as a party to the publication of that paper, of which he received so many copies from Morren.

Q. At what time was this?

A. In the Declaration emitted 31st July.

Mr. Skirving. I beg that my declaration at that time may be read.

[It is read, See Appendix, No. 2.]

Mr. Skirving. You see I took a knowledge of the letter at the very first,—I acknowledged every thing that was laid against me, and more—was I not dismissed simpliciter at that time? and was again taken up upon a new petition, though no new matter was brought against me.

Witness. We suspected he was possessed of that letter, and a warrant was issued to search his house, and the letter was found.

Q. Did I not give up all the Dundee papers and tell you I could not find the letter, but when I did, I would give it up?

A. Yes; but you never did, though it was found in your possession afterwards.

Q. Was I not at that time dismissed simpliciter, that is, without being desired to come again?

A. You was only allowed to go and search for that letter.

Q. The witness will recollect that he is upon his oath, and I ask him, if there were any such conditions?

There certainly was; you went away to find that letter.

HARRY DAVIDSON, Esq; sworn.

[In his examination on the part of the Crown, confirmed the last three witnesses in every particular, except the last part of Mr. Scot's.]

Cross examined by Mr. Skirving.

Q. Were you informed, that we were met that night particularly about a petition to Parliament?

A. Yes, I think it was Margarott who said, that they were then discussing a petition.

Q. Was I not apprehended by a warrant issued by you, upon the 31st July last?

A. I believe you was,

Q. Granted upon the petition of the Fiscal, requesting me to be incarcerated?

A. I think it is more than probable that it was so, but I do not recollect.

Q. Was I not dismissed upon the declaration I then made, without finding bail? *A.* Yes.

Q. Only eight days after, did I not appear before you again, upon the same subject? *A.* Yes.

Q. And you granted a warrant to search my house?

A. I certainly did grant a warrant to search your house, and to incarcerate you.

Q. And of course, this was on a new petition from the Fiscal? *A.* I believe it was.

RIGHT HON. THOMAS ELDER, LORD PROVOST,

Sworn, examined by the Lord Advocate.

Q. Had you ever any occasion in the course of your duty, to disperse any persons in the month of December?

A. I had. I went with some of the magistrates and peace officers, to a Mason Lodge in Blackfriars wynd, on Thursday the 5th of December,—we went up to what I understood to be the chair, and asked “if that was the meeting of the Delegates of the Friends of the People?” Mr. Skirving answered, I think, and said “Yes, they were;” and so did Mr. Paterson who was in the chair. Mr. Paterson soon after walked out, and the meeting called from all quarters for Mr. Browne to take the chair; who took it accordingly; and being desired to leave it, said, he had been placed there by the authority of the Convention, and could not leave it till he was compelled by force. I went accordingly to the chair, to hand Mr. Browne out: there were three constables in the room at the time.

Q. Did you see the pannel there that night?

A. Yes, he said, They were a legal and a constitutional meeting; and that they were upon business that was for the good of the country, drawing up an address to the king, or parliament, or something of that kind; they dismissed peaceably soon after; and I took the key away with me.—I heard one of the members in a corner of the room say, that they would adjourn to

some place in the Canongate, upon that account, we sent down some officers to see if they did so, and were informed, that it was a meeting of a society for some charitable purpose, and not of these people, who call themselves "The Friends of the People."—I was informed, that the Friends of the People waited till that meeting was dismissed, and then they took possession of the place.

Q. Had you information of any meeting subsequent to this?

A. Yes, we had people placed through the town to prevent their meeting again; and we heard that there was to be a meeting the next evening; but it being out of my jurisdiction, it lay more with the sheriff; and I went with the sheriff's substitute to disperse them;—it was in a carpenter's shop. I saw several people there, whom I had seen the evening before, particularly, Mr. Skirving, and I think Mr. Callander.

Q. Did they call themselves "The British Convention?"

A. Yes.

Q. Did they instantly disperse?

A. Yes; only as the evening before, desiring some force to be used by way of etiquette.

Q. And Skirving was there that second night? A. Yes.

Q. Was any thing said of their meeting being permanent?

A. Not that I remember.

Q. Did any body speak of a protest, and call for a notary?

A. I heard Skirving offer to take a protest both nights. In consequence of this second attempt, I issued a proclamation with the sheriff, to prevent their meetings the next day.

Q. Was that proclamation attended to, or disobeyed?

A. It was disobeyed so far, that an advertisement appeared in the Gazetteer, on Tuesday following, the 10th, signed by Skirving, "calling a meeting of the Friends of the People, on the 12th;" in consequence of which, I issued a warrant against Skirving on Wednesday, the day after the advertisement appeared, when he emitted a declaration. I then issued an order prohibiting him from calling that meeting at the cockpit.

Q. Did you give him a copy of it?

A. He might have had it, if he desired it; it was read over to him, and I think he said, he would read it the next day.

Cross examined, by Mr. Shirving.

Q. My lord, when you came to disperse the meeting in Blackfriars wynd, was it not given as a reason, why we did not disperse voluntarily, that it was a meeting of delegates sent there by other people upon important business?

A. Yes, I believe you did say so.

Q. That the business we were engaged in, and which was appointed for that night, some days before, was about petitioning the House of Commons?

A. I believe words to that purpose might have passed, but I cannot be positive.

Q. Upon your saying, that you must use force, did I not move, that as we had neither inclination nor ability to oppose force, any sign, such as your going up to the chair, should be considered as force?

A. As I did not hear any such thing: I know, both you and Mr. Browne said, you would not go without force.

Q. You must recollect that the motion came from me, that we should disperse peaceably?

A. No, I believe Mr. Aitchison was the person, he said it was the same thing whether they went out, or whether they were compelled to go out.

Q. Do you recollect saying, that you had jurisdiction over a public-house, but not a private-house; and I said, we considered this as a private-house?

A. I believe you, or some other body, did say something to that purpose.

Q. Was I not apprehended upon a petition of the Fiscal; which petition prayed a warrant of commitment? **A.** Yes.

Q. Was there an order given by the magistrates, not to shew the warrant?

A. I know nothing of such an order; I should rather think the order would be to shew it.—I really don't know.

Q. A declaration was taken from me at that time, and the affair at the cockpit was afterwards?

A. That at the cockpit, was taken by some other magistrate.

Q. And I was dismissed simpliciter?

A. You certainly was, that evening.

Q. And there was no action since commenced against me, at the instance of the town council?—A. Not, that I know of.

NEIL M'VICAR,

Sworn, examined by Mr. Burnet.

Q. Had you, as a magistrate, any occasion to attend my lord provost at any time in December last, to disperse any illegal meeting?

A. Yes, I attended my lord provost to Blackfriars wynd: Mr. Paterfon was in the chair, the lord provost went up, and asked him, if it was a meeting of the people, stiling themselves 'The British Convention;' and he said it was; that they were met for a constitutional purpose; and particularly, that evening, they were met to petition the king for Annual Parliaments and Universal Suffrage;—my lord provost desired he would quit the chair; he said, they had not broke the peace in any one instance, and it was a rule in the Convention that no one should leave the chair without the orders of the Convention, unless by force; my lord said, if he would not without, force would not be wanting. Mr. Paterfon moved, that they should depart peaceably; he said, it was the duty of every body to be submissive to the magistrates; this was not in general agreeable; and Mr. Paterfon having left the chair, there was a loud cry for the chair, Mr. Browne was called to it by a general voice; he addressed the meeting, and said, as he was called to the chair by the general voice of the meeting, he would not leave it, but by force; and immediately after lowering his voice, and speaking to the provost, he said, any sign of force was sufficient. Soon after, the lord provost said, I will act as chief constable myself, went up to the chair, took Mr. Browne by the hand, and gently pulled him away; after which the meeting dispersed.

Q. Was Skirving there?—A. Yes.

Q. Did you hear any person speak of a protest?

A. No, I did not.

Q. Had you occasion to go to any other place the night following?—A. I went the night following, to a carpenter's yard.

Q. Did you see Mr. Skirving at that meeting.

A. No, I saw Mr. Callander and Mr. Margarot; the meeting was dispersed that night; and the next day in consequence of a

proclamation from the magistrates, Skirving emitted a declaration in my presence voluntarily and freely.

Q. He was sober and in his senses?

A. Yes, I don't know whether it was read over to him, I was not present.

Cross examined by Mr. Skirving.

Q. I beg the latter part of my declaration before the magistrates, of the 11th december, may be read, to refresh the witness's memory, as he seems to have forgot a circumstance?

[*it is read see Appendix, No. 3.*]

Q. Does it consist with your knowledge, that the meeting which I called by that advertisement, was totally distinct from the British Convention?

A. I remember very well, that you was at great pains to convince us, that it was not the same meeting.

r. *Burnett.* Was there a declaration read over to the pannel on the 12th, as far as you recollect?—A. I cannot say.

[*The declaration read, see Appendix, No. 4.*]

Mr. *Skirving.* Does it consist with your knowledge, that the Fiscal gave in a petition complaining of my having put in that advertisement, and craving, that I should be brought up and punished; and that a warrant was issued, and I was examined upon that petition?

A. Yes, you was brought up in consequence of that.

Q. And there is no process on that account against me in Edinburgh?—A. Not that I know of.

Q. And I was dismissed simpliciter?—A. I cannot say.

WILLIAM COULTER, Esq.

Sworn, examined by Mr. Burnett.

Q. Does it consist with your knowledge, that a proclamation was issued against the people calling themselves "The British Convention?"

A. Yes, on the 11th of December, and on Thursday, the 12th, soon after 12 o'clock, I went to the Grass market, where there was a great crowd assembled at the entry of a close leading to the cockpit; and Mr Skirving was reading to the people a paper which he had in his hand;—when I got into the heart of the crowd, I begged that he would desist, which he did; and some

of the peace officers began to take the paper from him by force. I waved my hand, and desired them not to use any force against Mr. Skirving, unless he chose to give it up, which I believe he did. Mr. Skirving was, at my desire, brought before me, in the council chamber, and examined; and was afterwards carried to goldsmiths hall.

Q. Was that declaration made in your presence?

A. Yes; this is my subscription to it; it was freely and voluntarily emitted, and he was sober and in his senses.

Q. *Shews him a paper.* Was that the paper you took from the pannel?—A. I believe it is.

Cross examined by Mr. Skirving.

Q. Was I apprehended upon a warrant on the Wednesday, and sent to the council chamber?

A. I don't know upon what warrant you was apprehended.—I did not see the warrant.—I was present at your declaration.

Q. And I was dismissed without bail, or any new process of law instituted against me?—A. I know of no other process.

JAMES LAING,

Sworn. Examined by Mr. Burnett.

Q. Did you attend the magistrates to the Grass-market at any time?

A. Yes, to disperse an illegal meeting on Thursday, the 12th December; they were assembled in a close that leads up to the cockpit. I saw Mr. Skirving reading a paper; Mr. Brown was on his left hand, and a magistrate came forward, and spoke to Mr. Skirving, took hold of his hand, and he put the paper in his waistcoat pocket; he had read one side, and had turned it to read the other.

Q. Was he afterwards apprehended.—A. Yes.

Q. Was you present at his examination?—A. No, I was not.

[The paper produced in Court, see Indictment, page 16.]

Cross examined by Mr. Skirving.

Q. Do you remember the first day that I was examined; after you came in, I desired a copy of it, that I might read it?

A. I do.

Q. Does it consist with your knowledge, that I did not read it?

A. No, I did not see you read it.

WILLIAM ROSS,
Sworn. Examined by Mr. Barnett.

Q. Was you, or are you a member of the meeting of the Friends of the People.—A. I am.

Q. What is your profession?—A. A clerk in the Gazetteer office.

Q. Look at that paper, 4th October 1793. Who is the author of that hand bill?

A. I am the author of the first column, or half of it.

Q. By whose directions did you compose it?

A. By no person's directions.

Q. To whom was you to submit that composition?

A. To the Friends of the People, in the mason lodge, blackfriars wynd, at a general meeting at which I attended, I gave it to my brother to read it.

Q. Was the pannel a member of that meeting?

A. I believe he was secretary.

Q. Do you know who composed the second part of this paper?

A. I don't know.

Q. Don't it consist with your knowledge, that that hand bill was circulated?—A. I have seen them about the streets.

Q. Have you occasion to know where it was printed?

A. Yes; in the Gazetteer office.

Q. Had you any concern in the printing of it?—A. No.

Q. Was Mr. Skirving's name annexed to it?

A. It was, in the printed copy.

Q. Do you know who paid for the printing of it?—To whose account it was put?

A. I rather think, but I don't know, that it was put to the society of the Friends of the People.—I am a clerk in the office, but I don't manage that part of the business.

Q. Who does?—A. Mr. Scott.

Q. Had you any conversation with Mr. Skirving about it?

A. I don't recollect that I saw him at that time.

Q. Was you a member of the Convention of the delegates of the people, the British Convention?

A. Yes I was, I attended it the first day.

Q. Was there any subsequent Convention met afterwards?

A. Yes, there was.

Q. And the re-assembling of the whole Convention, do you recollect where they met; it was this winter, was it not?—A. Yes.

Q. Did you attend that meeting?—A. I did.

Q. Who acted as secretary to that meeting?

A. Mr. Skirving; I don't know whether he was secretary, but he acted in that capacity.

Q. Were there any other secretaries, assistant secretaries, or depute secretaries, or substitute secretaries, who acted at that meeting?

A. Yes; Mr. Aitcheson was appointed by the meeting to assist Mr. Skirving.

Q. Any body else? You, or your brother?

A. I never did. My brother used to take notes; and several other persons did the same: I don't recollect who they were.

Q. Were their accounts, to your knowledge, of the proceedings of this Convention published weekly in the Gazetteer, or abstracts?—A. Yes.

Q. Do you know that there was a scroll of minutes made up at each sitting?

A. Yes, there were; which were sometimes read at the next meeting and sometimes not.

Q. Were there ever any corrections, or alterations, made upon the reading of those minutes?

A. Yes, by Mr. Skirving and Mr. Aitcheson: But there was a committee proposed to be appointed to revise the minutes.

Q. Did this scroll of minutes contain an accurate statement of what passed?

A. They contained the substance of what passed.

Q. Should you know the scroll of minutes again, if you were to see them?—A. I saw them in the Sheriff-Clerk's office.

Q. Look if you know anybody's hand-writing there. [Shows him the scroll.]—A. It is like my brother's hand-writing.

Q. Do you know Skirving's hand-writing?

A. I have seen papers which were said to be his hand-writing, but I never saw him write; this looks like what I have been told was his; but I cannot say, as I never saw him write.

Lord Dunfinnan. Do you think it is like his hand-writing?

A. I think it resembles it.

Lord Advocate. Did you use to take down the debates of the Convention in short hand?—*A.* Yes.

Q. For what purpose?

A. For publication in any way I thought proper.

Q. In the Gazetteer?—*A.* Yes.

Q. Was what was published in the newspaper in general, a correct statement of what passed in the Convention, as far as you know?

A. My notes were very incorrect; having taken a bad cold which affected my hearing, but I made them as near as I could.

Q. Was you accurate with regard to the names of the speakers?—*A.* I cannot say.

Q. Do you remember any motion being made in particular by Mr. Skirving? Did you ever hear of a Solemn League and Covenant in the Convention (and consider before you give an answer) or any thing resembling those words?—*A.* I cannot say.

Q. Did you ever hear him make any motion at all in the course of their proceedings?

A. There were so many spoke that I cannot tell.

Q. What! did he sit dumb during all this time?

A. I don't recollect his making any motion.

Q. Do you know of any committee called a Secret Committee, being appointed by the Convention?

A. I recollect something of it.

Q. Do you remember if the Secretary was a member of that?

A. I cannot remember that.

Lord Abercrombie. You have sworn by Almighty God to tell the truth and the whole truth; if therefore you say, you do not recollect what you do recollect, you are guilty of perjury?

A. I am very much obliged to your Lordship for the admonition; but I don't recollect that.

Lord Advocate. I ask you again, who were to be the members of that Secret Committee?—*A.* I cannot recollect that.

Q. Do you remember what was to be the business of this Secret Committee?

A. It was to appoint a place of meeting for the members present,

Q. Was this place of meeting to be made known to any body besides the members of this secret committee?

A. I suppose it was to be communicated.

Q. And upon what occasion was it they were to meet think you?—A. In certain cases.

Q. What cases?

A. Cases of emergency; I cannot recollect them all.

Q. You need not repeat them all, but you must tell us some of them, before we part?

A. One was, in case of a bill being brought into parliament, similar to the convention bill in Ireland.

Q. That is one: now tell us any other?

A. I cannot recollect.

Q. Upon your oath, did you ever hear of any other being mentioned.—A. I don't recollect them.

Q. You have told us there were some others; now you must know something about them; Was any thing mentioned about a foreign invasion? I ask you upon your great oath?

A. There was something about a foreign invasion, but I don't know that that was one of the cases of emergency.

Q. How came it to be mentioned at all?

A. I cannot say; it might be at the beginning of a motion, or something of that kind.

Q. Was it upon the occasion of debating upon a convention of emergency?—A. I cannot say.

Q. Was a dispersion of the meeting ever given, as one of the cases of emergency?

A. There was some Conversation about that, the night before.

Q. I see, you are very correct in some things, though not in others. Did you ever hear of the Scotch act of 1701, against wrongous imprisonment?—A. I have heard of it.

Q. Did you ever hear it mentioned in the Convention, as one of those cases of emergency, if a motion should be made for suspending that act of parliament?—recollect yourself?

A. I think I do recollect it.

Q. Did you ever hear of the habeas corpus act in England?

A. I have frequently heard of it.

Q. Did you hear of it in the Convention the other day?

A. Yes.

Q. If a motion should be brought into parliament to suspend the habeas corpus act; was that a case of emergency?—A. Yes.

Q. Were there any other cases of emergency mentioned?

A. I don't recollect any more.

Q. Look at that? Is that one of the papers published in your office?—A. Yes.

Q. And these?—A. Yes.

Q. Do you know if they contain the substance of the proceedings of the Convention?—A. Yes.

Q. What was the common name by which the members were addressed?—A. You will see in the papers.

Q. But we want to hear from you?—A. Sometimes citizen,

Q. Did you ever hear the word section used in the Convention?

A. Yes, they were divided into classes, or divisions, or sections; a section consisted of fifteen or thereabouts: they met every morning, and made reports in the evening.

Q. Was you a member of a section.

A. Yes, No. 4; we met in Simon's-square.

Q. Was you ever present in the Convention, when reports were made by other sections?—A. Yes.

Q. Did you ever receive any strangers in the Convention?

A. Yes.

Q. Did you ever confer any mark of favour or honour upon any strangers?—A. No.

Q. Did you ever hear or know that there was at any time honourable mention made of any person?

A. I cannot say that I ever did.

Q. Did you ever see or know the honour of the sitting given to any person that came in?—A. No; I don't recollect it.

Q. Have you had, since the indictment was served upon Skirving, a meeting of the witnesses on his trial?

A. I have been in company with some of them; but don't know of any meeting appointed.

Q. Do you know a man of the name of Robb?

A. I have been in his house.

Q. Was not you there last Wednesday evening?—A. Yes.

Q. Was Mr. Margaret there?—A. Yes.

Q. And Somerville?—A. Yes.

Q. There were ten or a dozen of you?

A. Yes, I believe there was.

Q. Do you know the purpose of that meeting?

A. It was new-year's day. I heard that they were to ~~dis~~ there, and I went over to them.

Mr. Solicitor General. Who told you of that meeting?

A. I don't recollect. I did not know of it till within an hour of the meeting.

Q. You went upon the summons of you don't know who—was it Mr. Margaret?—A. No.

Q. Was it Somerville?—A. No.

Q. Your brother?—A. No.

Q. John Clark, the mason?—A. No.

Q. Was he there?—A. No.

Q. At that meeting, was this trial the subject of conversation?

A. It was mentioned that the trials were coming on this week.

Q. And what was said about them?—A. I don't recollect.

Q. And do you think we are to believe that?

A. I can't recollect any thing particularly relating to the trial, or with regard to the people who have been summoned as ~~evi-~~ dences.

Q. Was any thing said about what was to be the event of the trials; or about the evidence upon the trials?

A. Not that I recollect.

Lord Dunfingan. You will remember, that you are to answer at the great tribunal of Almighty God for what you now say.

A. I cannot recollect that any thing particular was said about it.

Cross examined by Mr. Skirving.

Q. If I put any questions respecting the Convention, it is for the sake of occasionally taking any blame from them, and not as it respects myself, because I don't hold myself responsible at present for what they do.—Does it consist with your knowledge that ever a deputy secretary was appointed by the Convention?

A. No.

Q. Did the Convention ever acknowledge any minutes of their proceedings till a committee of their own had drawn them up?

A. No, I believe not.

Q. Did the Convention appoint any names to be used by its members in preference to others?—A. No, not that I know of.

Q. Did the Convention appoint any established form of procedure, or were they only consulting about it?

A. If I recollect right, plans had been given in, but none of them were adopted before it was broke up.

Q. Had you ever the least apprehension of any design to raise tumult, riot, or any thing like sedition; in all the proceedings you have seen of mine in that Convention?

A. I never had the smallest idea of it.

Q. On the contrary, have I not always urged attention to order, and regular proceedings?

A. I have always seen you attentive to good order, and regularity.

Q. Does it consist with your knowledge, that meetings by delegates was preferred to general meetings, in order that things might be more regularly carried on?—A. I understood so.

Q. And that the principal business of the Convention from first to last was an application to parliament for reform?

A. That was the only object that I know of.

Q. This secret committee, was it not surely a committee of confidence, and appointed for the purpose of timely remonstrance, against a quietism-bill, by a speedy call of the Convention the instant that a motion for such a bill passed the house of commons?—A. I understood it so.

ALEXANDER AITCHESON,

Sworn. Examined by Mr. Burnett.

Q. Are you a member of the society of the Friends of the People?

A. Yes; I became a member upon the memorable 9th of August, 1792. I joined the general association at that time. I afterwards attended at Barber's hall; and afterwards, I joined the first meeting of the Canongate society.

Q. Was you a member of the British Convention?

A. Yes, I was a member of all the three Conventions by de-

legation from the Cannongate society.

Q. Was the pannel a member?

A. Yes, he acted as secretary.

Q. Did you bear any office?

A. Not in the first Convention, but afterwards in the second and third, I did assist Mr. Skirving. I took notes to the best of my knowledge of the business.

Q. Were they in general as accurate as you could make them?

A. To say they were accurate, would be paying too great a compliment to myself, but I did it to the best of my abilities.

Q. Look at this scroll of minutes, and see if it is your hand-writing?

A. Part of it is.

Q. Do you know Skirving's hand-writing?

A. No, I do not.

Q. Is that like it?

A. I cannot say; there were other gentlemen appointed at the last Convention as assistants to the secretary? and I believe I could guess at Mr. Ross's writing; here are two or three pages of his; there are several other hands, but none that I know except Mr. Ross's and mine.

Q. Is this any thing like any hand-writing that you know?—Is this like Skirving's?

A. It seems like a great many hands that I know; it is a very general kind of hand, and never having corresponded with him, I cannot swear to his writing; when I have been absent from the Convention, and have come in after the sitting was begun, I have seen him write, but paid no such attention as to be able to swear to it.

Q. Did you offer to give in a resignation of your title to be there as a member?

A. Yes, I found it inconvenient to my business, but they refused to accept it, saying, I might come when I could; and they appointed too delegates in my room.

Q. Do you know if the minutes were revised by a committee of the Convention?

A. Yes, before engrossing, they were always first revised by

a committee; and ordered by the committee to be entered in a book, and afterwards printed.

Q. Do you recollect any thing about the proceedings of the Convention, particularly, the names that the members went by?

A. I don't know what you allude to by that question.

Q. Was Mr. Skirving called William Skirving, or what?

A. No, we were not a society of quakers.

Q. Did you ever hear the word citizen in the Convention?

A. Yes, and I think it is the best title a man can have. I should blush for myself, as a burgher of Edinburgh, if I did not think so; and it is preferable to master, because we are commanded to call no man master.

Mr. Solicitor General. Did you at any time hear any thing pass relating to a convention bill?

A. Yes, I remember, a motion was brought forward, that in case a convention bill should be brought into parliament, some resolutions might be entered into, respecting it.

Q. And that was done, was it?—A. Yes.

Q. Did Mr. Callander make any motion upon that business?

A. I think he did, but I cannot say unless you will permit me to look at the minutes, (*looks over the minutes*;) It is impossible that I should remember, what is here mentioned, because it is not in my hand writing, I was not present at the time.

Q. Do you recollect any thing about a motion for appointing a secret committee?

A. I recollect such a circumstance had taken place, when I was out; and when I came in, as soon as I had taken my seat, a motion was made by Mr. Sinclair, that a motion that had now passed should be burnt. I got up and opposed it. I said that our proceedings were all free and open; and I was told that the resolutions had already passed. All that was meant was that some place should be appointed for us to convene in, in case we should be stopped by any compulsive measures.

Q. Was there any particular name given to this meeting?

A. It was a committee of secrecy.

Q. But the meeting that was to take place, was called—

A. Yes, a convention of emergency.

Q. Did you hear or understand, why it was proposed, that this resolution should be burnt?

A. I never learned it any farther than this, that when Mr. Sinclair proposed its being burnt, it was resolved that the motion, instead of being burnt, should be reported and published.

[The witness read from the minutes the resolution that Mr. Sinclair moved, should be burnt.]

Q. Look at the page before that?

A. That is not my hand-writing; I was not present, nor I don't think it is Mr. Ross's hand-writing.

Mr. Solicitor General. Here it is said the members stood upon their feet, and solemnly, and unanimously, passed the resolution as follows, and then comes a blank of a page.

Mr. Burnett. Do you remember any motions being made by Skirving in the Convention?

A. Yes, many; but I have so had a memory, that, unless there is something particular passed, I think no more about it.

[Reads from the minutes.] "Citizen Skirving moved, That all the members, both of the Convention, and of the primary societies, should subscribe a solemn league and covenant." But I remember very well, that Skirving was never called upon to explain what he meant by it. [Reads.] "Citizen Skirving moved, That the convention express its ardent desire, to cultivate a more close union with the societies in England, which was likewise unanimously agreed to."

Q. Is that your hand-writing?—Yes.

[The witness read several motions, made by the panel, in the British Convention, from the minutes.]

Lord Advocate. Was you there the night on which Skirving and others were taken up?

A. Yes, I was there, when the Lord Provost paid us a visit.

Q. Do you recollect any resolution that was come to by the Convention, that if you should be dispersed, that should be one of the cases in which the Convention of emergency were to meet?—A. I heard such a resolution.

Q. Was you present in the Convention, when you heard it?

A. I cannot say; I rather think not, but I think I heard it?

Q. Do you know of any other cases in which they were to meet?

A. I have heard that one was, in case the island should be invaded by a foreign enemy; another was in the case of a convention bill.

Q. Did you ever hear that the suspension of the habeas corpus act was one of the cases?—*A.* No.

Q. Was the Convention ever, to your knowledge, divided into sections or classes?

A. We were divided into divisions first, and then classes, and after that a section, was thought to be a better name than either of the others, and, for the last fourteen days, the word section was used.

Q. Was it common in the Convention, to give in motions in writing?

A. Yes, that was an early rule adopted, that all motions should be given in writing, and signed.

Q. Look at that paper? (shewing the witness, Mr. Callander's motion respecting universal suffrage.)

A. The indorsement, at the back is written, by myself.

Q. Look at that? (a motion by Mr. Margarot?)

A. I have seen that motion before, but I had no hand in it.

Q. Look at that? (a motion made by David Downie, for regularity and order?)

A. I think I recollect having seen that before, but it has not my hand to it.

Cross examined by Mr. Skirving.

Q. Did the Convention appoint any name in preference to another?—*A.* No.

Q. Were any minutes acknowledged by the Convention, till a committee had revised them?—*A.* No.

Q. Was there any appointment, of you by the Convention as deputy secretary?—*A.* No.

Q. Was this meeting, which you say, was for a convention of emergency, to take place upon a motion to bring in such a bill, or upon such a bill being passed?

A. I cannot be certain, but I understood it to be when the bill had passed.

Q. Did not you understand that it was a confidential committee, to be named with a view to have a place in readiness, that

whenever the thing was mentioned in Parliament, the delegates would know where to meet, in order to draw up a petition against it?—*A.* Yes.

Q. Did not the Convention, frequently alter on one day, what they had done the day before?

A. Yes, many things that I have written in these scrolls, were dashed out by order of the Convention, and others were left as they were, till the committee should revise them.

Q. Had the Convention finished their regulations and appointed them, or were they only consulting about them, when it was broken up?

A. They were only consulting about them, they had not finished by any means.

Q. There is a motion, which is said to be in my name; did you understand that I could have any other motive than that of regularity and good order?

A. The expression surprized me, and I took but little notice of it.

Q. Did you ever suppose I had any thing like a seditious intention in any thing that I did?

A. So far from it, that I have heard you say, you was sure the only way to support the present form of government, by King, Lords, and Commons, would be to obtain a timely reform.

Q. Do you remember when the motion, of the Duke of Richmond's plan of universal suffrage, was acquiesced in, I agreed to it, because that nothing less could overturn the corruption?

A. Certainly; and we were sanctioned in that opinion, by what the Duke and Mr. Pitt had published, a dozen years ago.

Mr. Burnett. Do you read the Gazetteer?

A. Yes, but for several weeks past, I have received them and not read a single line.

Q. Did you read the proceedings of the Convention?

A. No, I did not, as they contained nothing new, I thought I would look at them at any time.

Q. Do you remember receiving at any time, from the pannel, an address from Dundee?

A. I remember I saw that paper at a meeting of the Edinburgh monthly committee; it was handed to me by one of that

committee as a curiosity; I did not receive it at that time from Mr. Skirving; I advised against its being read in our meeting, as there was something in it which, I supposed, might be construed seditious.

Mr. Skirving. Does it consist with your knowledge that the Convention had any concern with the paper, called the Gazetteer?

A. As individuals we all wished it well as a paper, tending to the spreading of universal liberty, but not as a Convention.

G E O R G E R O S S,

Sworn, and examined by Mr. Burnett.

Q. What profession are you of?

A. A Clerk in the Gazetteer Office.

Q. Do you remember a hand-bill that was published in October last?—*A.* Yes.

Q. Do you know who composed that hand-bill?

A. Yes, me and my brother; it was laid before the general committee of the Friends of the People, who ordered it to be printed.

Q. Was Mr. Skirving present at that meeting?

A. He was; it was afterwards published in the Gazetteer, Mr. Skirving refused to put his name to that, or any other which was not produced by himself.

Q. His name was afterwards annexed to it?

A. Yes; and there were some thousands of them published.

Q. Did the Convention meet in consequence of that?

A. No. There were several meetings of that sort.

Q. Did you attend the meeting of the 29th October?

A. Yes, and Mr. Skirving was there, he was secretary to the Convention of the delegates of the Friends of the People, but not secretary to the British Convention; there was a scroll minutes of their proceedings.

Q. Were any of their debates taken in short-hand?—*A.* Yes.

Q. Did you assist in taking them down? *A.* No.

Q. Was there a particular place assigned in the Convention for the Secretary and short-hand-man?

A. There was no place for the short-hand-man at all.

Q. Were they published as minutes of the proceedings of the Convention?—*A.* No. They were published as news.

Q. Do you remember a motion for a secret committee?

A. I remember there was a motion about a committee for appointing the place of meeting of the Convention, but I do not know how it came by the name of secret committee; I never knew the Convention call it by that name.

Q. Was the pannel a member of that committee?

A. I cannot say.

Q. Was Mr. Margat a member?—A. I believe he was.

Q. Was Mr. Browne?—A. I cannot say.

Q. Do you know any thing of a convention of emergency?

A. Yes; in case any bill was passed to stop their meetings.

Q. Was any other emergency mentioned?

A. No. That is all that I recollect.

Q. Recollect yourself, if you ever heard of any other case of emergency?—A. The grievances of the nation.

Q. Was any thing mentioned about foreign troops landing?

A. I never heard of a French invasion; I heard of Hessian troops and Hanoverians being brought into the kingdom; it was reported out of doors, that in that case the Convention were to meet.

Q. But you are sure you never heard of French troops landing?—A. I am sure of that.

Mr. Solicitor General. Did you write any of these minutes?

A. Yes, I did.

Q. Look at that, and tell us what these words allude to: "the members stood upon their feet, and solemnly, and unanimously passed the resolution as follows?"

A. I don't know what it alludes to.

Q. Was it the common practice to pass resolutions in that solemn manner?

A. I don't know any thing of it, I don't recollect what it was, but I suppose it was a resolution respecting the Irish Convention Bill.

Q. What follows is a blank; can you explain that?

A. No, I cannot; I suppose it is misplaced.

Lord Advocate. Does it consist with your knowledge that this Convention was divided into sections?

A. Yes; I called them sections myself; I was a member of a section which met in an empty house in the Gazetteer-office.

Air, opposite to one Mullo's; it was our business to chuse a press, and if any motion was made the preceding evening, we made it our business to discuss it, and make ourselves acquainted with it.

Q. Did your Secretary ever make a report to the Convention?

A. Yes. [*points it out in the minutes*] and reads it.

Q. Did you ever admit any strangers in the Convention to hear your proceedings?—A. Yes.

Q. Was there any particular mark of honour, or attention paid to them?

A. No: no particular mark of honour, except a seat next the door.

Q. Did you ever form yourselves into a committee to take in a member?

A. We have formed ourselves into a committee to read a newspaper, containing Mr. Pitt and the Duke of Richmond's resolutions.

Cross examined by Mr. Stirling.

Q. This report which has just now been read, you say, was written by you. Was it wholly done of yourself, or was it directed by the meeting?

A. No; it was entirely of myself; the Convention had no concern in it.

Q. Was the committee on the Convention Bill to meet for any other purpose than to draw up a remonstrance against it?

A. I never heard of any other.

Q. And was not this the reason for declaring the time of the meeting of the Convention, to be at the time of the motion for a Convention Bill, for the purpose of getting the remonstrance into Parliament in time? A. No doubt of it.

Mr. Solicitor General. Did you ever hear in the Convention, a proposal for a Resolution to be burnt?

A. I don't recollect any such thing.

Q. Did not Citizen Sinclair make such a motion?

A. Not that I know of.

Q. [*Giving him a paper.*] Is that one of the Edinburgh Gazetteers? A. I believe it is; it looks like it.

Q. Was it your intention to give the world an accurate account of these proceedings?

A. It was; as high as we could make it.

Mr. Skirving. Did the Convention order the publication of them in the Gazetteer? *A.* No.

Q. Or had any concern whatever with them? *A.* No.

Lord Advocate. Was it known to the Convention that your brother attended, and took notes for publication?

A. I dare say it was to many of them; he was a delegate himself.

Q. Is the Pannel a subscriber to the Gazetteer? *A.* Yes.

Q. Was he frequently in the Gazetteer Office?

A. Yes; but not so often during the sitting of the Convention as before.

Q. Do you know his hand-writing? *A.* I cannot say that I do.

Q. Look at the minutes, and see if you there see any thing like his hand-writing? *A.* I cannot say.

Q. Look at the two last pages, and see if it is your brother's writing? *A.* No; it is not.

Q. Do you believe it to be Aitcheson's?

A. I believe part of it is.

Q. Do you believe this to be Skirving's hand-writing?

A. I have seen much of his writing.

Q. Is that like it? *A.* I cannot say.

DAVID DOWNIE

Sworn. Examined by Mr. Burnett.

Q. Was you a member of one of the societies of the Friends of the People?

A. Yes; I was a member of the British Convention, and I understood Mr. Skirving to be the Secretary.

Q. Look at that paper and see if it was a motion that was made by you in the Convention? *A.* Yes, it is. [*Reads it.*]

Q. Look at that and see if it is a motion of yours?

A. It is. [*Reads it.*]

Mr. Skirving. Did the Convention pass either the one or the other of the motions you have now read?

A. To the best of my knowledge they did not.

JAMES ROBERTSON,

Sworn, and examined by Mr. Burnett.

Q. Look at that printed letter, and tell me, if you know,

where it was printed? *A.* I printed exactly such a letter as this.

Q. Was it by Mr. Skirving's authority that you did it?

A. Yes; it was.

Q. Is that his hand-writing?

A. I cannot say. I am a very bad judge of any hand-writing.

Q. Did you ever employ him to keep your books?

Q. He has directed Newspapers, and assisted me; but I say now, as I did to the Sheriff, I cannot positively swear that it is his hand-writing, but it is something like it.

Q. [Shewing him another paper.] Is that his hand-writing?

A. Upon the oath I have taken I do not know; I do not think it is.

WILLIAM LIND,

Sworn. Examined by Mr. Burnett.

Q. You are apprentice to Mr. Robertson, the printer? *A.* Yes.

Q. Look at this, and see if it consists with your knowledge that that came out of Mr. Robertson's office?

A. Yes; it was printed there.

Q. Do you know by whose order?—*A.* No.

Q. Should you know Mr. Skirving's hand-writing, if you should see it?—*A.* No.

Q. Did he never write about your master's office?

A. I believe he has, but I cannot swear to his writing. I have seen a great many people's hand like Mr. Skirving's.

Q. Is that like his hand-writing? (shewing him a paper.)

A. It resembles it.

Q. Is that like it? (shewing him another.)

A. It resembles it.

Cross examined by Mr. Skirving.

Q. Did you ever see me write?

A. Yes; I have seen you write two or three passages, or paragraphs, when the paper was going on.

Q. And upon the recollection you have of what I then wrote, you think that is my writing?—*A.* It resembles it very much.

[A letter read—no address—signed Wm. Skirving:—See Appendix, No. 5.]

Lord Justice Clerk. (To Mr. Robertson.) Do you know what number of copies were thrown off of that letter?

A. There were four or five dozen, I can't say exactly.

[*The pannel's declaration of 5th of December read.—See Appendix, No. 6.*]

Lord Justice Clerk. Have you any exculpatory evidence to adduce, Mr. Skirving?

Mr. Skirving. The day is already so far spent, my Lord, and it appears to me so unnecessary to bring forward any exculpatory evidence, the public Prosecutor having proved nothing criminal against me, that I shall entirely decline it, especially that even the witnesses for the crown have exculpated me, from every suspicion of seditious intention.

Lord Advocate,

Gentlemen of the Jury, William Skirving, the Pannel at the Bar, stands charged, in this Indictment, with the crime of Sedition; a crime which has been known and recognised by the common Law of Scotland, and by the common law of every civilized government upon earth, from the earliest records to the latest period; which, when stated, carries along with it, to every person who hears it stated, as precise and distinct an idea as the crime of murder, of robbery, of theft, or any of the greater, or lesser offences, which are the subjects of criminal law, and the objects of Courts of criminal justice to punish. The minor proposition of the Indictment against him sets forth, fully and distinctly, the various facts and circumstances imputed against this man, and from which the legal conclusion is inferred, that he has committed the offence, stated in the major proposition. To that charge he has this day, in your presence, pleaded not guilty; he has told us indeed just now, within these very few minutes, that it would be idle and impossible indeed, for him to avail himself, of that permission, to avail himself of that right, which the law of this country gives to exculpate his guilt, or alleviate it in any respect, by the examination of witnesses; because he has had the confidence to state to you, that he does not think, nor does he see any thing, that has yet been proved against him, or any thing to be the subject of a proof in exculpation. Upon that point he and I are at issue; upon that point you are this night to return your Verdict; and to speak, not with too much presumption, not with too

much confidence, I trust, you will teach this man what, it seems, he has now professed himself to be ignorant of, whether his conduct is criminal, or is innocent; or, whether he is entitled, in your impartial judgment, to a verdict of not guilty, or to a verdict of acquittal, in respect that I have not proved my case to you. I must, for one, till taught otherwise by your verdict, against which it is impossible, either for the pannel or me, to lift up our voice with any effect in this country; I must consider it in a very different point of view indeed! I shall, in the sequel, take the liberty of stating to you, and of demanding from you, a verdict in favour of the prosecution. I shall state to you, that that verdict will be founded, not upon evidence of one kind or another, but upon a body of direct parole, and written evidence, so satisfactory and conclusive that, if your minds are not yet made up upon the subject, I trust, ere I sit down, to satisfy you, by selecting from that enormous mass of seditious, I had almost said treasonable matter, upon the table before you, that you cannot have a doubt upon your minds of returning a verdict in my favour. I hope to be credited, Gentlemen, when I state to you, upon my own behalf, that although this person, who in the end of July last, was taken up for his accession to that paper, which constitutes the first article of the charge against him; and although it was judiciously, and properly directed that he should not be examined as a witness against Palmer, who has already suffered a verdict of his country against him; as the person more directly concerned in the composition of that paper. I say, that I hope to be credited when I tell you that, if this man's conduct had been of a different complexion since the 13th of September last, the date of Palmer's conviction, although it was competent for me, at the meeting of this winter sessions, immediately to have brought my indictment against him, upon that fact alone, I trust you will believe me, when I say, that if that had been the only criminal matter against him, I should have found myself warranted after what had passed upon two recent trials, after two unanimous verdicts of the country, in two separate parts of Scotland, signifying, in the clearest and most direct terms, a disapprobation of those proceedings; after the severe, but the adequate punishment which these two persons have met with, and are at present undergoing, that the example, which these had

held forth, that the distinguished opinion, which the country had given upon the subject is those two cases, away from that prejudice which the pannel complains of to-day, that he and his associates labour under, among nine-tenths of the inhabitants of this country; a prejudice, which, I trust, will last with the British constitution; a prejudice which is born in the minds of the people of this country; and which, after every artifice which has been practised by this man, and such as him, has failed of its effect so completely, that in place of having the diabolical effect it was intended to have, it has, from one end of Great Britain to the other, and in Ireland itself, it has only had this effect, *to wed them more deeply and earnestly to that constitution, which their ancestors purchased with their blood;* and which, I know, they will transmit inviolate to their posterity, not only against the attacks of despotism, and arbitrary power, but, knowing that the country is not to be led away by the republican principles of such men as this pannel, they have the good sense to see where the delusion lies, that they are not to be misled by the glare of false reasoning, and that they will support the King and Constitution, against all who dare to attack it. And though the great, the only object of human criminal justice, or of human punishment, is to hold out a salutary example to others, I think the conduct of this man, such as it appears to night, and such as I shall represent it to you, e're I sit down, will satisfy you that, in this case, the benefit of example has been lost; and that, however proper or improper, you may consider our conduct as public prosecutors, in having neglected instantly to bring him to trial for the offence of which Palmer was found guilty, there is a hard, and a dire and a melancholy necessity indeed, imposed upon us to bring this man before you for subsequent conduct, that he may receive from you either an acquittal, or that punishment which he more than ever, after this pertinacity of sedition, most undoubtedly merits.

Gentlemen, the facts and circumstances stated in the minor proposition, though branched out into a variety of different articles, appear to me properly to be comprehended under two general heads.—His accession to the guilt of Palmer, in circulating (not composing,) that Hand Bill, which is there stated; and, in the second place, his endeavouring from the 4th of Oc-

tober, 1793, when this Head Bill makes its appearance, down to the 12th of December last, when he made that extraordinary appearance at the Cock-pit in the Grassmarket,—his endeavouring, I cannot indeed use the word endeavouring, but his persisting, during that period, in a seditious intent, manifested by his writings, and manifested by his conduct. And, I will tell him more, if he is so ignorant of the law and constitution of his country as one would think from his declaration to night he must be, that if that meeting, at the cock-pit, had been followed by tumult, or by insurrection, coupled with his conduct at the Convention for several nights before, he would have stood at this bar, charged with high treason; and, as such, would have suffered, if convicted, a capital punishment, under the statute of Edward III. because it could not be construed into any thing else but levying war against the king, under that statute; and, I will tell him more, that, when these indictments were preferred against him and others, who now hear me, and who must soon stand before a jury of their country likewise, that it was very dubious, among those who stood at the head of criminal justice, whether it did not warrant us in such a prosecution; however, we have taken the more lenient, and, I trust the more proper line of conduct; he, and they, stand charged with sedition; but of the truth, or falsehood of that charge, and the sufficiency, or insufficiency of evidence, it is not now my business to argue upon, it will be hereafter your province to give your verdict.

Upon Palmer's paper, I shall offer but a very few observations; a respectable and an impartial jury, as all juries in this country are, and, as all juries must be, I care not for those injurious aspersions which men, such as these, presume to throw upon their conduct; and, as little do I care for those arts that have been made use of to intimidate them in their duty; I say, this has already been stamped by a verdict of the country, as a seditious, inflammatory paper; and the person who composed it found guilty, as such: but, God forbid, that the judgment of any man, that the opinion of any court, that the authority of any man, or set of men whatever, should influence your minds one moment, or prevent you from taking that paper under your own serious consideration, and judging of its import and tenden-

cy, in a manner as free, and as untrammelled, as your powers are ample, as if it was now for the first time brought under your consideration. I desire you to read that paper. I desire you to consider with yourselves if it is a paper, such as Palmer professed it to be, merely for obtaining a reform in parliament; and which he gloried in the circulation of,—if you are of that opinion, it is idle to enquire whether the fact of circulation is proved, or not; he is not only not guilty, but has done that for which he is entitled to praise, and which does not merit censure:—but you will peruse that paper; and, if it appears to you, as it does to me, as it does to the courts by their permitting it to be considered as relevant, a most seditious and inflammatory libel,—to tell us, “The time is now come, when we are to assemble round the fabric of liberty to support it; that we are plunged into a war by a wicked ministry, and a compliant parliament;” when it is not the parliament alone, but the united voice of the country has justified us in going to defend ourselves in a war with a neighbouring nation; if that should be your opinion, it will be your business to enquire, how far the fact will bear you out; and I should think, I obscured, instead of illustrated, if I did any thing but desire you to look upon this paper with a favourable eye to the pannel; but you cannot but agree with me, that it is as seditious and inflammatory a paper, as ever was circulated among the inhabitants of this country.

Gentlemen, among the papers produced, is one of the records of the court, a petition of the pannel; he being taken up as guilty of an imputed offence, and after having it in his power to give bail for his appearance, he chose obstinately (from some desire of reform I suppose.) to refuse to give bail, and insisted on his immediate libration; and that the officer of justice should be incarcerated in his stead; or, at least, insisted before this court that it should be served upon him, when your lordships scouted the idea. In that paper he tells you, that “the chief business of the Friends of the People, as preparatory to the reform in parliament which they sought, was the information of the public as to the grounds of parliamentary reform, its importance, and immediate necessity. Your petitioner therefore, judged it to be his duty, as secretary, to submit every information to the

"public which he received, and thought calculated to influence these points; and the individuals and societies, who had it in their power to give such information, naturally transmitted the same to him as secretary."—Why, here is an explicit and an avowed declaration upon his part, that the information of the public, and the grounds of it were what he was bound to lay before them; and, if you consider that paper as such an information, as you will permit with impunity to be circulated through all parts of Scotland, I give up the question at once; you ought to return a verdict in his favour. He also adds, "Your petitioner has already suffered too much for attempting to prevent the overthrow of the constitution of his country, by the over-weight of any of the branches against the other, to be guilty of willingly assisting in any such design. He considered the paper complained on, as merely the strong effusion of honest hearts, alarmed by the measures of those in administration, judging the constitution in the utmost danger, and catching at the first grounds of alarm which presented themselves to their view."—This confession of his own is confirmed by one of the declarations just now read;—it is confirmed by the testimony of Morren, and of Kid, both of whom, though with considerable reluctance, deponed to their receiving such a copy of it from him; and that he was the person who appeared to have the charge of it. Morren indeed distinctly goes to this, that he received the paper from Palmer for publication; that he was desired to give so many copies to Skirving, if he called for it;—that he went afterwards to Skirving's house,—that Skirving sent somebody for it,—that he received an hundred copies;—they are found circulating through the town, and when the repositories of Skirving himself were searched, the hundred copies were all expended to two or three, or something within half a dozen; you will consider if that was not all that remained out of the thousand copies which were thrown off; and, which these gentlemen were to send round to the public; with regard to the important business of reform, Skirving having one tenth part of it in his own possession, distributing them among different persons, and only one or two appearing to be left, you will consider whether you have not sufficient satisfactory evidence, that he received those papers, know-

ing the purport of them; and gloriing in them; whether the fact is not clearly and distinctly proved, (not being contradicted upon the part of this man,) beyond the possibility of denial.

Having said so much upon this part of the charge, I come to the most material, the most important part of it,—I mean all these proceedings from the 4th of October, 1793, down to the 12th of December 1793, when the authority of the civil magistrate was contemned and despised; when nothing but the vigilance and exertion of the magistrates, to whom the country owes much for that public spiritedness with which they conducted themselves upon this trying occasion, could have dispersed this seditious, this illegal, and, I had almost said, this treasonable meeting. But the hand-bill of the 4th of October, is very candidly to day owned by one of the Rofs's, and I have no objection to give him the credit of that elegant composition. I only impute to the pannel the criminality of having lent his name as secretary of this general committee, to authorise its circulation into the world; and, as such, having become responsible for it. It appears from Ross's account of it, to have been wrote by both of them jointly; it was wrote the evening before the meeting of the general committee, at which Skirving is proved to have been present; and, though from a particular kind of frailty of memory, which seemed to distinguish both those able brothers, they did not precisely recollect every question which came from one side of the table, though, when they came to be questioned from the other, that recollection revived in a most extraordinary and a most amazing degree; although they did not perfectly recollect what he said upon the subject, they only recollected that he would not put his name to any thing but his own composition; there is enough to shew you that, if he would not as an individual, yet he had no objection to do it in his official capacity; in which capacity he now stands at your bar, as secretary to the Convention of the Friends of the People; it is perfectly clear that, as he never in the smallest degree complained of that seditious hand-bill being handed about with his name to it, by which he ratified and approved of the proceeding. He has not told you, nor dare he tell you that, when this paper was sent into the world with his name to it, he did, as every honest citizen

ought to do, revoke it, and publish to the world who were the persons guilty of it; and, therefore, you must hold him as a person responsible to you, and responsible to the country for this hand-bill, circulated with his subscription annexed to it, and under his authority, though the two Ross's are perfectly satisfied that they wrote this hand-bill, and that Skirving did refuse in the meeting to sign his name to it.

Gentlemen, is it possible to read the concluding paragraph of this paper, coupled particularly with the preceding advertisement of Palmer's, in which he is proved to have so distinguished a share; is it possible to read the concluding paragraph of that paper; holding out a menace to an association, numerous beyond example, which took place last year, when every good and worthy man in the country of all ranks and denominations was found subscribing to it? Can you read it without discovering an insolent and audacious menace to them for that conduct? if they did not retract, and the Friends of the People would be innocent? What were they associating for? For the protection of liberty and property.

It also contains another menace, equally seditious, and equally illegal. It is true the inhabitants of this country have a right to petition parliament for a redress of grievances, but is this, or any man, or any set of men whatever, entitled, when the country is at peace and in quiet, to send such a hand-bill as this among the people, to sound the trumpet of alarm among those who are contented and happy, to threaten even those men who may, in the moment of delusion, have been led to join in their proceedings, but who became satisfied, as ninety-nine persons out of one hundred are satisfied; that their proceedings are not tending to reform, but to subvert the constitution of this country; and, I know there are many well-meaning men, who having been led by false reasoning, imposed upon by the glare of some man's sophistry, or the east of some man's enthusiasm, have now withdrawn themselves from that society into which they had once been deluded, and that conduct which they had once been betrayed to follow. He tells you in this advertisement, that those members who do not attend, or send an excuse, will be publicly called upon; and this is a paper of which thou-

sands were thrown off, as Ross tells you; those men therefore, who chose to retract or alter their opinions, who chose to come back and join the majority of the country, to be faithful and loyal to their king, and attached to their constitution, had this menace held out to them that they would be publicly called upon, in as public a way as this paper is circulated, to intimidate them from following the dictates of their consciences, and exciting them to join in forming an arbitrary government, worse than that despotism of which a neighbouring country affords an example; domineering over the minds and bodies of their countrymen, and owning no authority, but that which they mark with atrocious acts of injustice and cruelty.

Gentlemen, let us now come to the material point of the case; let us consider the proceedings of the British Convention of the delegates of the people, associated to obtain universal suffrage and annual parliaments; a convention which, in its name and in its object, though the meeting was originally, and has for some time past, gone under the name of the Friends of the People, and only holding out, as their end, the obtaining a reform in parliament, has now, with an audacity which has excited, not the attention of this metropolis, not the attention of Scotland alone, not the notice of England only, but of Ireland; and, I believe, of the whole empire at large; which has attracted the attention even of France itself, and been there the object of admiration; a meeting which, in its avowed object, tends not to reform, as they pretended, but to subvert the constitution. Let these men argue as they please, let them declaim till they are sick, universal suffrage is a thing which the constitution of this country never did recognize, for the best of all possible reasons, because it is impracticable; and if ever attempted to be carried into execution, as it was well observed, by my eloquent friend to day, would tend just to the precise same effects and pernicious consequences, which we have seen, to the astonishment of the present day, in a neighbouring country.

Gentlemen, two things are to be materially weighed and considered by you upon this indictment.

In the first place, if the proceedings of that meeting, of which this man was a member, and not only a member, and an office

dearer in it, but, as I shall afterwards prove to you, in evidence, the ringleader, and chief instrument in calling it together, the first thing you must consider, with deliberation and care, is, *was it, or was it not a seditious meeting?* In this country, you have always possessed the right of determining the law, as well as the fact; your opinion must be made up upon the point. Is this meeting seditious, or not? And, if you determine it in the former case, then you will enquire into the sufficiency, or insufficiency of the evidence. It shall be my business to endeavour to satisfy you, that you have every evidence of the seditious nature of it that you can reasonably require, and that the nature of the case admits: more indeed than, I believe, could have been expected from a meeting, such as this, which with all its avowed pretexts and pretensions, I will point out to you in several parts of their conduct, their own firm conviction, that they were acting a dangerous part; and that the conduct that they were following was not such as the law of their country recognized. It seems, from some parts of the evidence, which I shall immediately notice, that they could not even in these meetings dissuade their own consciences; there was that silent monitor within which, (with all that pretence of reform, and that confidence which some have expressed to day, of the legality of their proceedings,) whispered to them this, that they were carrying on a kind of conduct which, if discovered, they must suffer for, and proves their own conviction of a sense of the seditious nature of their proceedings. In a country such as this, nor indeed in any country, possessing an established system of Government, and much less, in such a country as this, where the opinions of the people are made up upon the wisdom of that government, and are attached to it, by the surest of all ties, if the magistrates are active in the execution of their duty, it is not to be expected that any such meeting as this would directly avow an attempt to subvert the government, or constitution of this country; you may rest assured you will always find some pretext or other held forth to cloak their proceedings, till the moment shall come when they shall think it safe to avow them. Had we at present been trying the conduct of this man, by any thing which passed in the four first days of this convention, before they assumed that name

which they have taken to themselves, and before they came to those resolutions, which I shall in the sequel read from the minutes, we should have had such a case before us that you would have had to decide whether they were really and truly meeting for the purpose of a reform, or whether they were acting under a mask for the purpose of destroying the government of the country; but from the date of the assumption of this name, and during the subsequent week, or ten days, these Gentlemen have done away even the shadow of a mask over their proceedings; in every mode of their proceeding, every resolution which they adopt is framed directly and positively upon the model of the French convention; and I desire you to take this along with you, when you consider this subject, that although this meeting was illegal in every part of it, that it is because it is a convention, forming itself upon the model of a nation, with which we are at war, proving itself to be so by every means they could adopt to satisfy all the world, that that was their intention, except that they have not said we desire to have a French republic formed here, substituted in the place of our own, except, that they have not said so, *totidem verbis*; every other circumstance of their conduct directly points to that object alone. They make use of the term citizen. A smile, I observe, to drop from the panel at the bar, and from his friends who, I understand, are now sitting round him, and some of whom, I am afraid, must soon stand in his place, as if the assumption of the word citizen, was of no importance, and as a very high, and a very distinguished member of this society, the deputy secretary, declared, that as a Burgess of Edinburgh, he should blush for himself if he did not think the name of citizen a good one; it is true we are all good citizens of Great Britain; recollect this, it is used in a meeting professing a purpose which is incompatible with the constitution of the country; and take along with you this likewise, that the term citizen, being used in every subsequent part of their proceedings, shews what the purport of their proceedings were. In that case it comes to be material, like the case put by my learned brother, that he who a few years ago, with a white cockade in his hat, should have marched to the castle-hill of this city, and fired a few shots at it, would have been treated as a mad.

open; but he who, in 1743, had been guilty of the same thing would have atoned perhaps for his conduct with his life. The term citizen, of itself, is no crime; but used in this manner, it is a circumstance, in the chain of evidence, to show that they are a set of French Conventionists. I give them no other name; and that, as such, they are offending against the known criminal law of this and every other country upon earth; and, as such, are seditious. You find they have committees of finance, of instruction, of organization; in short there is not a single entry, not a single motion, not a single step taken by them which is not precisely formed upon the model of the French Convention; they date their proceedings in the first year, not of liberty indeed, but of the British Convention—members are admitted to the honours of the sitting; and, in short, every thing exactly upon that model.

Gentlemen, I stated to you, that the evidence in this case was not only direct and proper, but what is much better, it is written evidence, which cannot be mistaken, which must be true, and upon which, in the course of your duty, you are to form your opinion. Gentlemen, it was not till we had full information of the extent to which their proceedings went; nor, indeed, till they themselves entered in the Edinburgh Gazetteer, that which Mr. Aitchison told you, was a paper favourable to liberty and to reform, till they had entered in that paper the proceedings of their Convention, that a warrant was issued for their dispersal, and for the detention of their papers. The paper has been identified in the most satisfactory manner, as indeed every other has, except article twenty-four, and it is your duty to take them into your consideration.

Gentlemen, I shall now state that which, of itself, is sufficient to denote the seditious nature of their proceedings; and I shall dismiss what I have to say upon that second and last topic, in a very few words, and I shall confine myself to that particular motion which was made by Mr. Callander; I beg his pardon, I mean Citizen Callander, for so the motion stands, which I shall report from the minutes; and I shall beg leave to take some little time in commenting upon them; and, I trust, I shall not unnecessarily trespass upon your patience, if I follow the minutes from the first appearance of this motion, respecting the Convention

Bill, till by the sudden and unexpected arrival of the magistracy, an end was put to all the proceedings upon the subject.

Gentlemen, Upon the fifth day's sitting, (I read exactly the words of the motion,) being the 25th of November, and Mr.—Citizen President being in the chair, Citizen Callander moved, "That in case the minister should bring into the Commons House a motion for a Convention Bill, such as was passed in Ireland, it should be noticed immediately to the Delegates."—By the form of their proceedings it should seem: for those gentlemen conducted themselves with amazing regularity, that this motion was not taken up at the same sitting that it was made, and we see no more of it till the next day, when we have the following account of what passed upon the subject. Mr. Mealmaker in the chair.

[*Reads from the minutes. see Appendix, No. 7.*]

John Gartly,—he, I understand, is the town drummer of Pailly*. Margarot was for adopting the spirit of Callander's motion, but thought "it woud be most advantageous to postpone it till the conclusion of the Convention business."—Margarot moved, &c.

[*Goes on reading. see Appendix, No. 8.*]

—Also, upon the twenty-ninth day of November, Citizen Mealmaker in the chair, passed a resolution as follows.—This is in the hand-writing of George Ross, a gentleman who occasionally officiated as secretary to the meeting; then there is a blank of a page follows in the minutes; and then Citizen Gerald makes an animated and an energetic address, expressing his happiness at the motion passed, that a secret Committee of three, and the secretary, should be appointed to determine the place where such convention of emergencies should meet. Let me stop here, and direct your attention to what the minutes have now directly proved to you, and to what Ross has, with so much reluctance said:—Let me direct your attention to the three papers of the Gazetteer marked, No. 78, 79 and 80, and though there was a reluctance in the Ross's to account for the blank in the book, I shall be able, I think, upon solid grounds, to satisfy you why this blank was left in the minutes, and that motion, which was made by

* This is one of the gross falsehoods invented by the opposers of Reform, for the purpose of throwing an odium on the cause of Reform.

Snclair, to have that paper burnt, was not what Aitcheson told you, the motion for a secret committee, which appears two pages afterwards; but was a motion for a Convention of emergencies, and that convention founded upon cases, founded upon circumstances, which I confidently say, verge upon an act of treason. Citizen Margarot moves, "That a secret committee of three and the secretary be appointed, to determine the place where such Convention of emergencies should meet." Look at these minutes, and see if you can find any prior mention of such a Convention of emergency; its name itself proves that this measure was under previous consideration, and was now determined upon, at the moment that Margarot made his motion for a secret committee; therefore, it is clear to demonstration, by real and convincing evidence, that the blank in the minutes, which precedes this speech of Gerald's and Margarot's, must relate to that convention of emergencies, and not to that secret committee which follows Margarot's speech.

Gentlemen, I know not whether, in the heat of argument, I may make myself understood; but I am satisfied of this, that you must concur with me, not only that both the Ross's, but Aitcheson did this evening conceal the truth, to give it no worse an appellation. I think, this circumstance proves, by real evidence, that what they said is not the fact; and proves, that something did pass, for which this opening was left:—to wit, the appointment of a convention of emergency, which Margarot, by that subsequent motion of his, clearly and distinctly points out that something of this kind had passed before: for, if you find any thing of it before, my argument is good for nothing;—but circumstances do sometimes happen to come out in evidence which the most artful cannot foresee, and which the most wicked cannot guard against; and, I say, this speech of Margarot's is as decided and as fortunate a circumstance, to shew that this blank is meant to be filled up with that motion for appointing this convention of emergency, as if you had seen the motion before you. Mr. Aitcheson tells you, that he came to the meeting at about 3 past 10, and was informed that there had been a motion respecting a secret committee, and that Citizen Snclair said it should be burnt; that Aitcheson exclaimed against it, and said, that their proceedings were fair and open, and the motion was not burnt.

But mark this also, that every part of the minutes, previous to the blank, is admitted to be in the hand writing of Rofs; every thing after the blank, is admitted to be in the hand-writing of Aitcheson;—it is therefore perfectly clear from Aitcheson's account, that this secret resolution, which he swears was come to by the Convention, before he entered the room, and which they told him he was too late in giving his vote against, could not be that secret committee which was moved for after he came into the room, but must have been the motion of Citizen Callander, which Citizen Sinclair wished to be kept secret, and was afraid should see the light.

I hope, and trust you follow me in the argument, because I think what I am now stating is circumstantial real evidence; that this motion for a convention of emergency was meant to be put into this blank. It was Sinclair's motion, to which Margaret afterwards alludes, previous to the appointment of the secret committee, which appears in the minutes, in the hand-writing of Aitcheson; but leaving the previous blank for the insertion of Sinclair's motion. Before I go any farther, I beg leave to refer to a paper which, with great difficulty, the Rofs's admitted to be at least the substance of their proceedings; and that fills up, in a measure, this blank in the minutes. In this paper Mr. Scott, the printer of the Gazetteer, tells you, that it is an accurate account of the proceedings of the British Convention, down to Monday. [*Reads from the Gazetteer.—See Appendix, No. 9.*]

One of these gentlemen was a short-hand writer, chosen for the purpose of publishing their proceedings; and, I hope, I may be allowed to assume, that this Gazetteer, though it may not, perhaps, tell every thing that they did, yet upon the authority of the two Mr. Rofs's, and upon the authority of Mr. Scott, the publisher, that it does contain, at least so far as it goes, an accurate account. Let us see whether this was merely the motion for a secret committee which appears in the minutes, or whether it was not a motion with regard to the nomination of the Convention of emergency, which I told you he was so very willing to have burnt; what does he say? On the Thursday, Mealmaker being in the chair, they were for adopting Callan-

der's motion—and then it was referred upon motion to a committee. "The committee reports progress, and asks leave to sit again, &c". [*See Appendix, No. 10.*]

You will consider, whether the bare nomination of a secret committee could be the subject of this serious and solemn address of Sinclair's, or whether it was not the cause, the motives, and the cases under which the convention of emergency was to be assembled which could alone claim this serious attention, which could only be supported by their uniting, which underwent a long discussion and received several amendments; and, when the Convention was resumed, it passed unanimously in the form of a declaration and resolutions: but, being ordered to stand the last article on the record of the proceedings of the Convention,—[*See Appendix, No. 11.*]

You have it then distinctly in evidence, that the motion of Sinclair was not that which Margarot, half an hour after, made for the appointment of a secret committee, it is impossible it should, from the circumstances of its being kept out till the termination of that session, which termination never arrived; and then, Mr. Gerald rises and makes a speech—compare the Gazetteer, it tells you, Gerald rose to congratulate the Convention on the adoption of this resolution, not only on the propriety of the motion itself, but on that unanimity and that solemnity with which it was passed, tallying exactly with the words in the minutes, that the Convention rose solemnly upon their legs. Then is it possible for you not to believe that this blank, the only blank in the minutes, was left for the purpose of entering Sinclair's motion at the termination of the present session, and that it was this motion which they passed with so much unanimity, which Gerald congratulated the Convention upon, in such an animated, energetic, and manly a way as they tell you. I say, the subsequent motion of Margarot, which followed from, and was a consequence of the previous antecedent resolution, could not be the motion intended to be put into this page. I will not give you all Mr. Gerald's speech—he would have stood in that place the day after to-morrow, but he is indulged, at his own desire, to have his trial

put off; but he shall stand his trial in this court, before he and I have done with each other. After all this you have a long speech of Margarot and Browne. You will hear what this Gazetteer then tells you; after stating Gerald's speech, which congratulates the meeting upon the motion already passed; after stating Browne's speech at the length of a page and a half, and, you will attend to this, a secret committee was appointed to fix a place for the meeting of the convention, under the circumstances mentioned in the preceding resolution. Am I wrong then, or, am I unfounded in the view which I am now giving of the evidence, to satisfy your minds that it is founded upon the nature of the case; founded upon evidence which cannot err, and which cannot be mistaken, that this convention of emergency, and the cases in which that convention were to meet, was the motion for which this blank was left, and was the foundation and the basis of that last meeting moving for a secret committee, which the minutes bear to have been moved by Mr. Margarot, and which follow after the resolution of Sinclair; that business, which they would not dare to meet discussion upon, whether it should be secret or not; when Aitcheson called upon them again to go over it, they said the resolution was already come to, and it was now too late, though he had the confidence to tell you, that he thought this secret committee, which appears in his hand-writing at the foot of this page, was the secret committee to which the motion alluded. I hope and trust, that, if I have done wrong at all, it has been in using too many words to satisfy you how the truth stands, notwithstanding all that reluctance to tell the truth, which is so conspicuous in all these persons, and that what I have said, and only that can be, and is the truth.

Gentlemen, Let me look back again to the minutes; I am sorry to trespass so much upon your time, but I feel it a duty, incumbent upon me, and I confess I feel some kind of anxiety in a cause of this nature, however clear the evidence may be, for the sake of my country, or for my own satisfaction at least, to leave no argument unstated which may be necessary for your subsequent deliberation. Mr. Margarot moved for a secret committee; and that each delegate shall be entrusted with a sealed

letter, containing the name of the place of meeting, and the following Citizens were named as a committee. There are only four members; and yet those persons, Aitcheson, who wrote the minute, and Ross, and his brother, the assistant secretaries, who gave it as an article of news to the public, could not remember the names of those four persons, tho' such distinguished characters as these gentlemen are, Messrs. Margarot, Skirving and Browne, they could not recollect their names, tho' three of the members, which constituted this secret committee, are now at that bar.

Now, gentlemen, at the end of the meeting, it is moved by John Clarke and Matthew C. Browne, "that a committee of observation be appointed in London, to give the earliest information of that kind, mentioned in the foregoing resolutions." Clarke moves the very same evening, "to establish a committee of observation." [*See Appendix, No. 10.*]

They may certainly pretend what they please, but the resolution of Sinelair was that by which the convention of emergency was appointed. This lies over till next day, in common form. The next day, the 29th November, in the first year of the British Convention, anno Domini, (which I wonder they did not discard) 1793, tenth day's sitting. The secretary read, according to form, the previous motion of Clarke for a committee of observation, to be appointed in London.—Citizen Margarot said, "there was no occasion for a committee of that sort, as there were some thousands, of persons in that City, upon the look out;" I hope there are gentlemen. On the evening before the Convention was broke up by the civil power, when they had sufficiently provoked the vengeance of the magistrates of this City, who took those steps which ended in a complete detection of the whole; and it seems we have been blamed; it is said, "why were these men permitted to proceed so far as they did." Gentlemen, they were permitted to proceed till we had our information complete; and till we were ready to strike that blow which was struck, and upon which we recovered every species of evidence that was necessary; and, it should seem, it had even reached the ears of those persons; for, on the preceding evening, it appears that Mr. Margarot had either heard or suspected that they were now come to the very utmost point of their guilt; and that the sword of justice was just ready to de-

send upon them; the very evening before the other motions lying before them were dismissed, and Margarot got leave to bring in a motion to the effect, "that the moment any illegal disperson of the British Convention, should be considered as a summons to the delegates to repair to the place of meeting, appointed for the convention of emergency by the secret committee, and that the secret committee be instructed to proceed, without delay, to fix the place of meeting." The Convention having considered the motion fully, unanimously resolved the same, and appointed the secret committee to proceed as desired. Early the next morning the ringleaders of this party were apprehended, before day light, in their beds; and all their papers seized.

Now, gentlemen, permit me only to remind you of the evidence of Aitcheson and the two Ross's, however ignorant they were, you recollect they were extremely reluctant to speak out upon the subject of this Convention; both of them concurred in telling you at once, I believe the last did not remember any thing at all about the matter, but the two former, Aitcheson and William Ross did tell you, that in case of the parliament moving for a *Convention Bill*, similar to that of Ireland, that that was one of the cases under which this convention of emergency was to take place. They admitted that fact completely, which they thought was very innocent; but I beg leave to state, that it is the very reverse; and if I had nothing more to argue upon, in support of my proposition, that the proceedings of this Convention were seditious and illegal, I would ask nothing more than they themselves have admitted, the purport of Citizen Callander's motion; and this case of emergency, as they themselves state it. Gentlemen, is it possible that you can permit any individual, or set of individuals, for any reason whatever, true or false, real or pretended, to set themselves up in opposition to the legislature, to take measures for thwarting them in their deliberations for the public good, to appoint secret committees, to call together delegates for thousands of persons, as they tell us, they are to fix upon a place to rally; and, if government do proceed to act as the Irish parliament have done before them, that that shall be a signal to rally to a given point, and for what purpose? The pur-

pose is not spoke out, but it is your duty and your business to consider, that if a quiet and peaceable petition to parliament is, *as we all admit, a reasonable and a proper step*, yet if you confound with that right to petition, a secret appointment of this nature, the moment that such a Bill is brought in, to convocate and call together in one given point, the delegates from numbers of persons all over the country. Shew me sedition? Tell me what it is? Is it possible for you to conceive any thing more directly falling under the name of sedition, than this resolution of Sinclair's, a step actually taken by them, to carry that seditious intent against the parliament into execution; they appointed a secret committee, whether they appointed a place of meeting or no, I don't care, for I take the meeting in the cockpit, to be something like it; here then is a seditious intent acted upon, as far as the magistrates suffered them to act upon it. Gentlemen, I believe you see here, before you, one half of the British Convention of the delegates of the people,—*the worthy representatives of eight millions of people*, and four persons, two of them now at your bar. Are those men fit to be trusted with the power of petitioning parliament peaceably and quietly? or did it require that these people should appoint a secret committee to watch the motions of parliament? or was it necessary for a peaceable appeal to parliament, on this, or any other question, that a convention of emergency should take place? I say it was nothing but an attempt, if it was possible that the good sense of the country should be so misled, to take the first step in that system of anarchy and disorder which they wish for, and which has *taken place* in a neighbouring country.

Gentlemen, the conclusions will be unquestionably for you to draw; you are to judge of men, not by their professions, but by their conduct; and if you can reconcile their conduct in any respect to quiet, to legal, to constitutional proceedings, I will give up the point. Gentlemen, I might have rested upon this case of emergency, but I say it does not rest there, the legal dispersion of the meeting is proved to have been an additional case moved and carried in the Convention, upon the evening of the 4th, when they were apprehensive of being laid hold of. And will you permit this man, or any set of men whatever, in the face of

your magistrates, who are obstructed in the execution of their duty, will you permit them to make, what they call an illegal dispersion of their meetings, also a signal of this rallying of the convention of emergency, in which Mr. Gerald rejoices and exults, and which Sinclair tells them, is to be supported by their united efforts.

Gentlemen, last of all comes what depends upon the evidence of the first Rofs, and upon the evidence of Aitcheson, what is proved is, that one case of emergency was that of a foreign invasion. Rofs called it a French invasion. I think the other man called it a foreign invasion, and young Rofs said it was in case of Hessians and Hanoverians being brought over, but not a word of the French. Gentlemen, you will judge of this Convention with all its French terms, whether young Rofs is to be believed, or Aitcheson and his brother is to be believed; you will consider whether the emergency of a suspension of the Habeas Corpus act, or of a motion in parliament for a Convention Bill, similar to that of the Irish one, does or does not prove it be a meeting for seditious purposes; you will consider what purposes they, if they were peaceably inclined, could serve, whether such a delegation, from thousands of persons, was not calculated for some other purpose. It remains unascertained; and unexpressed, because it durst not be expressed, whether this convention of emergency was for the raising a French invasion, or supporting it; you will consider, holding the balance of evidence strictly between the Pannel and the Crown upon this subject, if upon viewing the conduct of these gentlemen, if upon observing Skirving glorying in a paper which accuses the parliament and the whole body of this country of injustice; going to war with a nation merely because they will be free; if upon looking to citizen president, and citizen this, and citizen that,—to the divisions into sections, to the *Vive la Convention*, which appears to one report, and *ça ira* at the bottom of it, admitting persons to the honours of the sitting, if you are to subvert the constitution of your country, by putting in place of it universal suffrage, I call upon you, as honest men, if you can throw these circumstances altogether from your minds, or if you think these men were met together to resist an invasion, if such a thing should

happen, then you will say so; but if, as my opinion is, their purpose was to assemble a convention of delegates, representing, as they say, thousands of people, then the conclusion is inevitable, that the purpose for which this Convention met was to join those persons whom we know within these few months have dared to hold out, in their own country, that they would land an army in this, and establish what they pleased in it; would punish London, the proud metropolis of Britain, for its interference and defending itself as it has done, you will be of opinion with me that they meant to lift the hand of rebellion against their sovereign—the constitution of their country, and the liberty of their fellow citizens.

Gentlemen, before I sit down, I hope I shall not be accused of unnecessarily trespassing upon your time, when I profess the authority from which I draw it, the reading, as part of my speech, that of an able and intelligent man, pronounced very lately upon this very subject, I mean the Irish Convention Bill, and I think I cannot be imputed a panegyrist if I take the words of the Solicitor General of Ireland. When the convention was moved for last summer in Ireland, it received all the censure, it was made the handle of every topic of abuse, and of an attempt to inflame the minds of the Irish against it, but the minds of persons in that country, of a similar description to those here, could not possibly listen to such a censure, it received an ample discussion in parliament; and, to the honour of opposition in Ireland, who have in a great measure followed the honourable and patriotic conduct of the opposition here, though Mr. Grattan the chief of their leaders was for limiting it to a certain time, it was universally admitted to be a measure which no country could tolerate; and which, in some effectual way or other, though they differed in the mode, they were bound to resist. Gentlemen give me leave to read part of his speech upon that subject, because it is immediately upon the point before us; and farther, because it is more eloquent, better composed, and more argumentative than any thing I could say upon the subject.

[He here read an extract from the Solicitor General's speech in the Irish parliament.]

I ask yourselves if that gentleman stood in this place, address-

ing you, instead of the Irish Parliament, if the circumstances would not precisely justify an adoption of the same language. We have a parliament assuming to itself the name, not of England alone, but of England and Scotland, upon the French model, partaking in all its proceedings of the distinguishing marks of the proceedings of France; and I appeal to a speech of Mr. Browne's particularly, as Mr. Margarot boasted that thousands in London were upon the look out, so he encouraged this meeting in Black-friars-wynd, telling them that at Norwich, and Sheffield, and every where else in England, there were many thousands, of whom he was the worthy representative who had delegated him to this meeting. Gentlemen, there were also contributions levied upon the poor and the ignorant, the deluded and infatuated, many of these persons were brought here to day before you. You saw their appearance and their situation in life. Aitcheson indeed is in the employ of some gentleman or other, but look at the list of those persons, and you will consider what Skirving has to answer for, or what others of a higher description have to answer for, who, with the aid of superior talents and discernment, have knowingly propagated the contagion among such persons, by discourses and by proceedings of that kind which are laid in this Indictment.

Gentlemen, I think I have now gone through the greater part of what it appears to me to be necessary to state. In the division of the sections you will find it to be equally clear and distinct; the honour of the sitting; a compulsory attendance; in short, in every point after the model of the convention of France. And they pass to the order of the day; when one person, a gentleman whom I shall not name, because he must soon be responsible at your bar for his conduct, appears and attacks the verdict of an English jury, and the sentence of the lord chief justice of England, he is admitted to the honour of the sitting. I say this upon the authority of the minutes. And in one particular motion, I think made by the secretary, a regulation is made that no stranger shall be admitted to the honours of the sitting, unless recommended by two members, and a variety of other circumstances, which it will be unnecessary for me to state; but I pledge myself, without fear of being contradicted, that

every single word that I have now stated stands upon these minutes. Here is a motion made by citizen Ross with *vive la convention* at the top, and *ça ira* at the bottom of it; here you have a body of circumstances together, perhaps each of them *separatim*, insufficient to found any serious charge, but all taken together, directly pointing to shew that it was a meeting of a seditious tendency; besides that, you have a motion made by Mr. Margarot and Mr. Callander, copied I believe exactly from one of the resolutions of the French convention. Then comes Mr. Downie's motion, and, in one word, to bring the whole distinctly to the pannel, that, as he was the secretary, so he is the chief tool and instrument in bringing them together; it is proved in the most complete and satisfactory manner; first by the motion of Downie, which describes him completely in that character, and on that account alone, as being the chief spring and the very soul of all their proceedings, he seems to be indulged with the power of speaking oftener than once. You have also two letters produced which calls upon these delegates, in the most inflammatory manner, who had gone away previous to this, to return to their duty at this awful period, and come to their posts! You have also what is still more material, and proves distinctly, that this Skirving is the person who formed the idea of this delegation, and of this meeting; that he is the person to whom this country is indebted for that wonderful advantage which they have derived from the presence of Messrs. Margarot, Gerald, Browne, Callander, and Sinclair. Here are two letters found in the repositories of Skirving, one of the 5th October, 1793, dated London, addressed Mr. William Skirving, head of the Horse-wynd, Edinburgh, signed Thomas Hardy; two days before the meeting of the general committee, containing an observation which goes to attack the conduct of the jury, and of the supreme court of judicature of this country.

[Unfortunately no copy of this letter can be procured.]

Gentlemen, this proves that upon the 2d of October, Mr. Skirving had wrote to Mr. Hardy, the secretary of the London corresponding society, stating, that which Hardy says is an excellent opportunity, that he had suggested the plan of a general convention, and it contains an observation which, I hope, will be

made by these gentlemen upon the chief magistrate of the city of Edinburgh, who has just followed the conduct which Sir James Sanderson followed, and for which that magistrate has received the thanks of, I believe, nine-tenths of the city of London. Upon the 24th of October, Hardy writes again, thus;

[*Reads it.*]

Gentlemen, I have now gone through the whole of the evidence. It remains for me only in a very few words to consider, which I shall do very briefly, the proceedings consequent upon this. You have the evidence of Mr. Davidson the Sheriff-Substitute, of the Lord Provost, Mr. Laing, and Mr. Scott; and I shall dismiss them all, with just referring you to a perusal of what is charged in the indictment upon that subject, and ask if you can hesitate one moment in saying that every word, that I have charged in the indictment, is distinctly and fully proved, beyond any possibility of doubt; when they were forced to retire from Black-friars-wynd, upon the evening of the 5th, they called out that they were to adjourn; they adjourned to another place, and it is proved by the Gazetteer that that evening the Convention declared themselves permanent. The event of an illegal dispersion was one of those events which was a signal for the convention of emergency to take place, the meeting place of which the committee were to keep secret from all the world, that it might not be known; that a fire might be kindled in a place where the eye of the executive power could not see it, and might rise to such a height, that it would have been perhaps impossible to have extinguished it. Gentlemen, you find them the next evening, though out upon bail, again acting within the bounds of the city of Edinburgh. Here they yielded to the authority of the chief magistrate, but had they done what was oppressive, had they presumed to have dispersed a constitutional, peaceable meeting, they might have obtained redress. You find them again assembled the next evening, and Skirving particularly, under a thin pretext which you will not receive, that the Cock-pit was his own private house: they were to meet agreeable to advertisement, upon the 10th of December; the British Convention being now constrained to adjourn to the place appointed for the convention of emergency, the general committee

of the Friends of the People, were requested to meet at the house of Skirving, at the Cock-pit, at twelve o'clock at noon. Can you consider this meeting at that place, founded upon the restraint which they had met with, and this advertisement being signed by this very gentleman as secretary to them,—can you consider it as any thing but a petty—sagging pretence to shelter themselves under the wing of the law; Mr. Skirving was there, and Mr. Browne persons who were the ring-leaders, and active, not only upon Thursday the 5th, but upon the evening of Friday the 6th; and when called upon before the magistrates upon the Wednesday, to answer for this insolent advertisement, he pretends a wish to obey the law; he gets a copy of the prohibition of the magistrate; and, to conclude what I have to say with regard to him, what is his conduct? You find him reading a paper which, my brother who spoke early in the day, anticipated every thing I could say upon the subject, is as insidious, as seditious, and as inflammatory a paper as, under such circumstances, could possibly have been composed; he writes it in the morning before he goes to the place of meeting: and, he says, “The magistrates of the city, having forbid your legal and constitutional meeting, called this day by advertisement, and by their proceedings to prevent it, having given occasion to a great concourse of people, which may issue in tumult, and hinder your deliberations, it is judged proper to adjourn the meeting.” It was false when he wrote this paper, that any assemblage of people had taken place; whether it was likely to be so or not, he could not know the fact which did not exist; but this he coolly and composedly puts upon paper before he goes, and shews what was the object he sincerely wished should happen, that there might be a concourse of people and a tumult, that he might retire with precipitation from it, and leave, perhaps, a misguided and deluded mob to suffer for their folly, if a tumult did exist; or if there was any chance, that upon this occasion any riot was to take place, the tumult would be of a different nature, and a dangerous stop indeed, which would have directed its force, if it had not been checked by the arm of the magistrates, upon the heads of those who were the real objects of it. He says, “It is therefore proposed to you, to give place to the violence

"used against you: You will thereby convince the public, that
 "you did not deserve such treatment; and now that your dele-
 "gates have a permanent existence,"—they had voted them-
 selves permanent the week before, when it was carried, that they
 were to assemble under another name at the Cock-pit; this
 proves that the object was the same, that they were in a state
 of permanence which the Friends of the People had not come to,
 but which the British Convention undoubtedly had; and now
 that they "have a permanent-existence, your several societies
 "will be multiplied greatly, and means will be used to lay the
 "business before each society individually, by printed bulle-
 "tin's." Still the same French expressions, from the moment
 that he appears upon the stage, till his last appearance which he
 makes upon it; and with which appearance I take my leave of him.

Before you, Gentlemen, the only legal representatives of your
 country; and to whom, as such, your country look up, and who,
 I know, will support your proceedings; before you, have I laid
 the conduct of this man, and from your hands I demand justice
 against him. I cannot conclude without reminding you, of what
 it is perhaps indecent in me to suppose, that you can be
 intimidated, or that you can be overawed, or that you
 can be dissuaded from exercising that duty which you owe
 to yourselves and to your country, and following the dic-
 tates of your conscience, by the calumnious, false and un-
 just aspersions of any man, or set of men. I know, and I trust,
 these will be treated by you with the same contempt, with
 which I have treated all those attempts, which have been made
 upon me; with that contempt with which I shall treat all that ca-
 lumny to which I have been lately exposed with that contempt
 with which I have treated even those anonymous threats of assas-
 sination, which I have received in the course of these two or
 three months, because I have dared to be vigilant and faithful
 in the execution of my duty; and, I shall not cease in the course
 of that duty, in the situation which at present I hold, and which
 I hold to be a great and important one; I shall not be induced
 to recede from that kind of conduct, which I am determined to
 follow at all hazards, and in every event. I did hope that the
 example of two recent prosecutions might have had their effect,

But which the conduct of this man proves have been completely lost upon him. I shall however continue to discharge that duty; and every man who presumes to follow the conduct of these persons, not only those who are at present under charge, but those who may not take example from what, I trust will, be the result of the proceedings of this night, they may depend upon it, that the arm of the criminal executive justice of this country, shall be directed to bring them to punishment. I shall bring them into this court, to this bar, before a Jury of Scotchmen, and in their hands I shall leave them; and I know they will do justice. And, I trust, we shall all, as Jurymen, as prosecutors, and as judges, meet with the applause, and with the support of every worthy, every good, and every virtuous citizen; and the abuse or threats of those of a different description, I shall account my highest honour, and consider as my best reward.

Mr. Skirving.

Gentlemen of the Jury. It gives me pain to think of detaining you, by going over the whole that I stated on the relevancy; but as you was not then in judgment, I think it my duty to state again generally what I then said, and to which I now call your judicial attention.

[Here Mr. Skirving proceeded to run over the substance of his pleading, before the Lords of Justiciary, and having stated to the Jury, that it was impossible for a person, not accustomed to speak in public, to follow out the Lord Advocate in so long and elaborate a speech, in which, however, he observed there was, he might say, nothing to criminate him personally, the most of it being occupied in vilifying the Convention, and in fitting up a blank leaf of some notes, said to be of the proceeding of the Convention, and taken down by a number of persons; he went on to his defence, and took the liberty to read and speak alternately as follows:]

Though what I have stated already, in pleading against the relevancy of the libel, must have convinced you of the injustice, of charging any thing concerning that paper against me, after what had already taken place relative to it; yet, as the writing has been condemned by a Jury, and the prosecutor seems still to

I lay much stress, in his endeavours to criminate me, upon my having received some copies of it, and upon my giving some of them away to a very few people ; I must call your attention to the amount of the evidence produced on this point, although it must strike every person, on the first reflection, that if I had thought that writing calculated to any purpose which I had in view, instead of giving away the very few charged on me, I might have had them sent to all places where there were societies of the Friends of the People.

There appears no concert, on my part, in this business, nor previous knowledge of the nature of the writing, nor commendation of it. No evidence, of my ever approving it ; and, so far from shewing an anxiety to distribute it, I had taken no means to spread it at all, nor ever considered it as a writing, that could give offence, or in the smallest degree endanger the peace of the country. There is not a single thing more come out in trial, than what I acknowledged before the Sheriff, and from which I was affoizled by him. The Fiscal, who on no principle could be a witness in this cause, did indeed swear that I was only dismissed to bring up the letter which I had acknowledged. But you see the Sheriff himself, with candour acknowledges, and you see the Fiscal himself declaring the truth by his conduct at that time, though the prejudice of his heart has operated a different idea in his mind since that event. At that time he believed his first petition to be judged and rejected, for he first gave me a new summons, without a petition, and then presented a new petition *by the Lord Advocate's orders*, to have my papers searched and myself incarcerated though no new crime, nor additional circumstance to the former, was so much alledged in it. " The above petition having been read in Court, the Lord Advocate, as the petitioner has been informed, objected to it, and said *that the proceedings against the prisoner had been all taken in consequence of directions given by him.*"

The Jury who condemned the Dundee address, informed of the alarming society of the Friends of the People, by the false and insidious calumnies of vile and venal newspapers, and magnifying the hideous picture, according to their distance, might

naturally enough suppose, that, putting such a paper into the hand of such men, was giving arms to the enemy, or a dagger to madmen; but it could never enter my thoughts that such a paper would ever excite the Friends of the People to riot, or tumult. I knew them too well to apprehend the smallest danger from their reading of it; the facts set forth in the paper were already known to them. And if this paper fell into the hands of others, it could only have excited them to join the Friends of the People, which to do, is synonymous to a declaration, to avoid all riot and tumult; and, instead thereof, would have been subjecting themselves to good order, and to wholesome regulations.

The public prosecutor must have been very ignorant of me, if he thought my reading was so contracted, as that I should be startled at such a paper. I have read many, much more strongly expressed; and even the worst of them did not come up to my idea of sedition, which is *leading making*; and, let me observe, that seeing this quality was admitted as essential to make up the crime of sedition, at the time of making these statutes, and these were the times of arbitrary government in this country, could I ever suppose, that at the end of the eighteenth century, telling the truth would be found sedition. And, if the authors, who have wrote the same things, have not told us the truth, in the passages which I will now read to you, from whom are we to get the truth? And who are we to believe?

I have already read some passages, and will afterwards read some more.

If then, I, who knew these things, could not believe the Dundee paper to be false and calumnious. How then can I be chargeable with sedition, for only receiving it, and letting a few friends, who were all on the most intimate footing with me, get copies of it, when desired. Besides, it is to be observed, that, as they were sent to a society whose secretary I was at that time, I might have given them all without fault, though it had been a criminal paper, because I might have given them without looking at them, so as to judge of their merit.

It is not proved, though asserted in the libel, that I gave a

single copy to any, but to those to whom it was sent, and only to them, when they called for it.

No more is proven. And can doing this admit the suspicion of seditious and felonious intention? Surely no person hearing me can believe it. I ask you again, has the public Prosecutor proven a single thing more than what I acknowledged before the Sheriff, except giving one copy to Mr. Kid, and one to Mr. Aitcheson, of both which, however, the Sheriff likewise knew, and yet judicially absolved me.

The Prosecutor is not more successful in his proof, relative to the 2d hand bill charged in the indictment. He has neither proved that I wrote it, nor that I signed it, nor approved of it, nor published it, nor even that it is the address by the society, to which I am secretary; nor, that I was secretary to that society in particular. Nevertheless, as he will not give up his charge against me in this particular; and, as some may suppose, that I must have been concerned in it; and yet, I trust, that none of my judges will proceed in judging me upon any thing, except what is fairly charged upon me in the indictment, and also fully proved; I will beg leave to put that natural interpretation on the address, which unprejudiced investigation must be inclined to put. Supposing that a society of the Friends of the People, for I can only suppose it, as the Prosecutor has by no means proved it, had drawn up this address to the public, yet some of the witnesses said, that the meeting referred to, refused to pass these resolutions. As all of them were very sincere, and conscientious, and of course zealous in the cause of reform, as being that alone which, in their humble estimation, can save the country; can it be supposed by any thinking man, that on such a subject, they could possibly express themselves more softly. They believe sincerely that they have been, as by piecemeal, deprived of all the rights which, they have been instructed, their fathers had purchased by their blood—as was offered to be proved in the House of Commons, by Mr. Wharton, as you have seen by his motion made there, and not contradicted, and which I have already read to you. In what other terms can you suppose that they, as free born Britons, would apply to

those who kept them up, than in the language of DEMAND and of restitution. If they have not been robbed of their rights, they are made to believe so by those who should know best; the members of that very house, which it is said, have sold them. Fully persuaded, and high in the idea, that they had at length fallen on the only plan by which they could recover their lost rights, and in which they thought their fellow citizens were blind in opposing them, because their opposition to the measures, which they judged effectual, hurried the ministry into a destructive war, which, they dreaded would end, as is now evident, in anarchy and ruin. In what more moderate terms then could they reproach them for their folly, in being the evident cause of reducing their country to so great calamity and danger.

After all, for I must take every advantage of the prosecutor, because he has discovered an unjustifiable keenness to criminate me. You will immediately be convinced, that all he has said, and all the evidence he has brought, is quite foreign to the object before you. It cannot any way be applied to the address in the indictment. The hand bill is described, in the indictment, to be a hand bill, in consequence of which, a society, termed first, "The General Convention; and which did afterwards arrogate to itself, the name of "The British Convention," did assemble. But all the witnesses have declared, that the hand bill, on which they bore testimony, was that advertisement, whose object alone was to call the several meetings of the Friends of the People, in Edinburgh, to meet in their respective bodies. It called no meeting of any other description, as you will see by the part of the bill, which the Lord Advocate has industriously kept out of sight, and which parts omitted, are as follows.

"*FRIENDS of the PEOPLE, Mason Lodge, Blackfriars-wynd,
4th October, 1793.*

"Conscious of the purity of their motives and the legality of all their proceedings, which have been solely confined to that great object of national justice, a Parliamentary Reform; the Friends of the People have heard, with mingled astonishment and contempt, the false and injurious aspersions bestowed upon them, in the course of Mr. Muir's trial.

"In their own vindication, and to shew the world, that neither the imbecile ridicule of a crown lawyer, nor the unconstitutional opinions of a judge, can make them desert the great and important cause in which they are embarked; a numerous and respectable meeting of the Friends of the People, in and about Edinburgh, holden as above, have unanimously agreed to the following resolutions :

" I. That this society is determined to adhere to the original principles of its institution.—' An equal representation of the People, and a shorter duration of parliamentary delegation.'

" II. That, without reflecting on a verdict of the country, the meeting consider it their duty, to return thanks, in this public manner, to Thomas Muir, younger of Hunterhill, for his manly and honourable exertions, in the cause of a Parliamentary Reform.

" III. That this meeting likewise consider it a duty to express their thanks to the Rev. T. F. Palmer, for his exertions in the same important cause.

" IV. That this society calls upon the people of Scotland, to unite in promoting the happiness and prosperity of their country, by assisting to obtain a Reform in the Commons House of Parliament, the only measure that can secure to them and to their posterity, the inestimable blessings of peace; check an encroaching and oppressive system of taxation, and prevent the baneful influence of that corruption which has proved so inimical to public virtue, and so destructive to private morals."

" *FRIENDS of the PEOPLE.*—The General Committee call on you to meet in your respective societies, at the times and places directed below, for the purpose of admitting those who now incline to join your several societies, and thereafter to take the proper measures previous to the General Convention, which will be then submitted to your consideration.

" *Wednesday, Oct. 9th.*—The Calton and Lawriston societies, will meet at their usual places, precisely at 8 o'clock.

" *Thursday, Oct. 10.*—The Cowgate society, will meet at the same hour, in the Mason Lodge, foot of Blackfriars-wynd," &c.

As I know of no other meeting, except those nominated in the said hand bill itself, which did meet in consequence of the hand

bill, the general meeting, as is stated in the indictment, "allended in consequence of it," must have been one of Reeves' associations; and which might, with great propriety, be termed an illegal association, for all that is known to the pannel, for he was never connected with any of them; and has no knowledge of any such illegal association.

But, it is actually proved, by the confession of the person who was the author of the indicted part of said hand bill, and by the evidence of his own brother, that the parts of that publication complained of, namely, the first half of it, is not my composition, but his own, and can any person suspect me to be the composer of the remaining half of the bill, when they see that it contains an address of thanks to myself; if ever the same was at all ordered?

I have shewn that there is nothing in the first part criminal, and what in the last part is wrong? Who does not see, that after the French have conquered all Europe, they must also conquer Britain. And if this country associators were sincere, they are now certainly called upon to risk their lives and fortunes, that is to say, they are called to oppose this formidable enemy, who may take both life and fortune from all those who have pledged their lives and fortunes to oppose them, if they shall find them making good their promise, by still urging and aiding the very ruining attempt, to subjugate that people.

The public prosecutor and some of the lords of judiciary have grievously twisted the *N. B.* at the end; which, however, if considered in the plain and obvious light in which it appears to every eye, not jaundized with prejudice, cannot be construed to mean more than a peremptory call, to make good their share of the public obligations of the society in the present deficient state of their finances.

I have already said, that the general meeting, defined in the indictment, is not any meeting called by this hand bill. That at any rate, I am no way connected with any such general meeting, as the one so charged with sedition, and said to have met in consequence of said hand bill. The British Convention, whose secretary I am, is that well known society and meeting, which was a prorogued meeting of the Convention of the Friends of the People, that met on the 30th of April last, and adjourned till Octo-

her ensuing; and then assembled in consequence of said adjournment, and of the following public advertisement; and not in consequence of any other advertisement whatever,

Friends of the People, and of Parliamentary Reform.

“ The General Convention, at the last meeting in May,—unanimously resolved, to persevere in the cause of Reform which they had espoused; and therefore adjourned to Tuesday the 29th of October next, when they would again assemble in the City of Edinburgh, in such a place as the Friends of the People there should provide for the meeting.”

“ The several Societies are now therefore called on, to meet in their towns with all convenient speed, for the purpose of electing and instructing their Delegates to the ensuing General meeting.

Societies lately formed, and those who have not been yet affiliated with the General Association, and such as may now be formed, in consequence of this intimation, will not fail to send with their Delegates, an attested declaration of their adherence to the principles, and the object of the Association.

“ Another application for redress of grievances,—the kind of Reform sought, and for the not specifying of which, in the last Petition to the House of Commons, it was rejected,—the mode of this application,—the vindication of the association against the public charges of sedition, and malignant design, &c. are subjects which will require the most deliberate discussion. The Delegates, will, therefore come up to this meeting, as to the duration of the sitting.

“ Meetings, and incorporations of every denomination, already established for necessary, or benevolent purposes, in whatever part of the kingdom, and who may not conveniently change their firm, but who are well disposed to unite their efforts for a speedy Reform, *as being that which alone can put a period to the calamities of the nation*, will be received as brethren in the persons of their Delegates,—*for the Friends of the People seek not their own reputation, but the universal good of all.*

“ The Association, in Edinburgh, will advertise the place of meeting in due time. “ W. SKIRVING, Sec.”

“ This is the meeting which I acknowledge, and which I will defend if called on.

The minutes produced, may be the minutes of any other meeting. It is not proven that they are the minutes of the true British Convention, with which I am concerned; and for which I will ever be ready to answer. Not one witness has declared that they are so; and I have never been called on to instruct how these papers came into my hand. They are evidently the notes and writings of many persons. It is not proven that any of them are my writing; and though this had been proved, it has been at the same time proved, that they could not be the minutes of the British Convention; because the British Convention appointed a committee to draw out their minutes, and it is not even hinted, that these are the minutes drawn up by this committee. And how can they possibly be the minutes of the Convention which appointed them.

The British Convention of delegates is a justifiable, and justified association. It met under the sanction, and after the example of the convention of delegates from the Burghs, and of the convention of delegates from the counties of Scotland, and both of these countenanced by the first characters in the kingdom. It had the same legal authority for assembling, as either of these. When a few of the pensioned, and to be pensioned, members of these in this county, wanted to call in question the propriety of their own conduct, with a view to put a stop to our pensionless associations of the people, they were pleased to report the following, and transmit the same to the other counties.

" Report 11th. In addition to this report on the merits of the two bills, the committee submit, that they entertain great doubts of the propriety of sending delegates to the meeting appointed for the 30th of May next. In the present situation of this country, they wish not to give their sanction to general Conventions for the purposes of reform: They do not see any good that can arise from it, for the business can be more fully and better investigated in each county, where Freeholders and commissioners of supply form a legally constituted meeting; but they have no powers by law to send delegates to any Convention. The only legally delegated body is the House of Commons; and each county can give instructions to its representative, by which

mode the general wish of the country may be obtaining in a constitutional manner.

“ JOHN INGLIS, *Preses.*”

This attempt of the committee of the county of Edinburgh, evidently intended to pave the way for a quietism bill, received the following answer from a number of the principle members of both these Conventions.

“ *Answer 111b.* The opinion of a meeting thus constituted, will not, it is hoped, have much weight in the meetings of the 30th of April, or with the commissioners of supply, and the great body of heritors, entitled to attend these meetings, it was the declared intention of the last meeting of county delegates, *to restore the right of representation, to all men who stood deprived of it by the act passed immediately preceding the Revolution, and by the different explanations given to it in the present century.*

“ It is curious that the committee of Edinburgh Freeholders, most of whom were delegates, and voted for the re-election of delegates this year, should have made such a proficiency in the study of law, during the course of a month or two, as to discover the illegality of meetings of this kind, and that they should venture to state their opinion against that of the Lord Chief Baron of the Court of Exchequer, who presided in the last meeting, and of the Lord Advocate, upon whose motion it was unanimously resolved, to recommend a new meeting of delegates this year, without either the Dean of Faculty, or any other of the eminent lawyers, or any of the country gentlemen, having once suggested a doubt concerning the legality or propriety of the measure.

“ We entreat the committee of the county of Edinburgh, to recollect that every meeting is lawful upon the very principles established at the revolution, which they have so solemnly bound themselves to stand by.

“ The futility of the argument, that each county may, without communication with others, instruct its members on the mode of amending a law, which is general over the whole country, must be apparent to every one. Were this attempted, we may be sure no amendment whatever would take place, for it is

next to impossible that any two counties should, without communication, agree on the same mode of amendment. Hence it must appear that the consequence of the committee of Edinburgh's resolution, is to allow those abuses to remain in the law, which (*to use their own words*) have rendered it impossible for courts of law to follow uniform and consistent decisions.

"ROBERT GRAHAM, *Protes.*"

It is evident then, that in being a member of the British Convention of Delegates from the societies throughout Britain, I am no more chargeable with guilt, than his Lordship the Prosecutor himself, or these other great names who patronised the burgh and county conventions. And the British Convention is also equally justifiable, and must be held so, until legally condemned. One of the Prosecutors, comparing this regular and well-known meeting, or society, to a mob collected for mischief, maintained, that any one of the number might be taken up and punished; but he by no means instructed, that either by the law, or the practice of this court, any man was ever punished for being present at a mob, if it was not also proved, that he had an active hand in effecting the mischief that was done by that mob.

If the British Convention is to be esteemed by you a mob, you cannot find me guilty of any thing, but of those things only which the Prosecutor has proven, was my own individual act. If the Prosecutor had charged me, as the secretary to the British Convention, and therefore answerable in law, for their proceedings, I should have met him boldly in that capacity, and challenged him to criminate any part of their conduct; I should have been prepared to answer every thing his ingenuity could have suggested against those deserving Patriots. I should have justified them fully. In this case, I would have stated candidly, the object and design of that body; their proceedings down to the time of the violent attack made on them; and submitted the whole, to a fair and open trial. But to try me, individually, upon parts and portions of proceedings, of a seditious number of people, as the indictment states them to be, and which were called in a very different manner from the British Convention, which was summoned by an avowed advertisement of mine, put into the newspapers by their authority, as I have already stated

and which was of a very different nature from that one narrated in the indictment, is certainly the most extraordinary and unprecedented attack; and which, I am sure, the Prosecutor could never have made, if he had not known, that every person, and every thing would be at his back, like his faithful minion, whose mistake has been shewn before his face in the court.

If the British Convention, consisting of delegates from the various societies of the Friends of the People throughout Britain, is justified by the example set them by the whole nation, and which example I have shewn you, was vindicated and justified by some of the first characters in the kingdom, and cannot be condemned; surely neither can you condemn the business for which these delegates were sent up, namely, to take the proper measures for a substantial parliamentary reform. Can any man have a doubt of the necessity, the immediate and absolute necessity, of such a reform: I will not suffer a doubt to remain about this necessity in the breast of any one who hears me; I will read a few paragraphs from the publications of those who should know, who must know, that such necessity exists, and if we may not believe them, whom shall we believe? I will first read you from the Earl of Buchan's political essays, lately published, the opinion of men in the higher spheres of life.

"A rich and powerful nobility (alias an oligarchy) must soon destroy the liberties of any people among whom they are suffered to domineer.

"It is in vain to search for the moral and rational principles of government in the military Gothic age: in those wretched times men had no civic union, no proper interchange of political sentiment. Fixed, or rather chained as they were to the soil of their masters, the people were without collision of sentiment; had no organized societies for the contemplation of common interests; no high roads, no posts, no printing-presses! What is man in such a situation, but the machine of regal or princely ambition and luxury!"

"The struggles for liberty in Greece and Italy, recorded so eloquently by the Greek and Roman classics, imbued the minds of youth, and excited the feelings of the aged, with the ardour of political sentiment. The people then began to know truly

what it is to be a member of a free commonwealth, to be a citizen: delightful name! best of inheritances, best of rights, not to be surrendered, but with the life that accompanies it! With these sublime and heart-engaging affections, the study of the Scriptures of Moses and the Evangelists in the living languages of Europe, and the consolation of free agency in the choice of religious opinions, remarkably contributed to the creation of new political energy among all ranks of men, but particularly among the middling and lower classes of the people, who by religious controversy were made, as it were, artificial members of society, and felt the inexpressible and captivating delight of thinking and acting for themselves, and of touching and affecting general society. The clergy, irritated to madness by the dissolution of their magic superstition, and looking forward to the total destruction of their profitable fable of the church, persecuted the thinking and reforming people, and this laid the foundation of that perception of religious liberty, which immediately connected itself with political liberty in Scotland so early as the reign of James V.

"To women, some how or other, we have been indebted from the beginning for fortunate revolutions."

"To the beauty, gaiety, and imprudence of Mary Stuart, the daughter of James V. we are indebted for the present state of Britain, such as it is. Had Mary been prudent, Scotland might have become a popish monarchy. England at best would have been under its old monarchy (with proper address, under the Stuarts; and we should not have had occasion to deprecate Gallic freedom with the monstrous insanity of modern Englishmen; but to deplore the want of it."

"I stop rather to enquire concerning the comparative state of Britain, in this philosophical age of political sentiment, with France and other countries, that have had inferior advantages.

"Who but a clerk of the treasury, or a lord of the king's bed-chamber, can contemplate this parallel without regret?

"It was in the last war of George II. that Great Britain laid herself under the necessity of defending her wide-extended dominion; and of asserting her claim to be the first nation upon earth. The contest was bloody and expensive, but the end was

glorious—The enemy prostrate and breathless, empire extended, honour maintained, peace established, and, like the sun rising after a storm, a young and native monarch holding the sceptre, and ascending the throne, amidst the acclamations of the freest and happiest people on the globe.

“These acclamations are heard no more. A system of corruption, established and digested early in this reign by a baneful aristocracy, has pervaded every rank and order of men, till the spirit of the constitution has fled and left only the *caput mortuum* behind. The forms of our government have outlasted the ends for which they were instituted, and have become a mere mockery of the people for whose benefit they should operate.

“The prophecy of Montesquieu is fulfilled; and nothing can save the country but the fulfilment of the prophecy of Franklin. What that prophecy was, what this prophecy is, I leave to the curious to learn. What I have written, I have written: futurity will determine the truth of my own particular predictions, and whether I am to be remembered as a captious Cynic, or a wise and Pythonic politician.

“To conclude: As I think it unnecessary to delineate the spirit of the times in Europe with respect to government, so I think it to be indispensably required at my hands, that I should, with respect to Scotland, deprecate the refusal of a militia to my country, the necessity for which was so eloquently set forth by my favourite Fletcher.

“That I should mark with my blackest coal the game licence act, which is an insidious and dangerous disarming of the commons.

“That I should express my utmost detestation and abhorrence of the conduct of a first minister, who calling himself the minister of the crown, with a treasonable audacity should dare to advise the dissolution of a parliament, against the sense of a house of commons, the only legal organ of the voice of the people, let that house be ever so ill constructed, and demand ever so much reformation.

“That I should loudly protest, that a parliament ought to be allowed to die a natural death. And,

“That if a parliament, contemplating the foreboding, the

ominous imperfections of the constitution, should on its death-bed provide for a remedy by the equalization of the representation of the people, it would prevent the dangerous concussion which must undoubtedly arise, and that quickly, from their political franchises being brought to the level of surrounding nations with a violent jerk. Let us not (said my admirable preceptor and friend, Adam Smith, author of the *Essay on the Wealth of Nations*;) rashly believe that Great Britain is capable of supporting any burden.

"Let us consider what hold we have now of the two Indies, of Canada, and our other lucrative dependencies. A blow may be struck, a blow will be struck, that shall reach the vitals of public credit, and it is an event which nothing but political insanity can induce public ministers not to provide against. But no provision can be made against this event, except that which has been pointed out by the finger of the genius of Britain's welfare,

"I will not offer incense to the living, but to the dead: I inscribe this and the following sheets to the memory of Sir George Savile, of Rufford Hall, member of parliament for the County of York."

"In Scotland the rights and liberties of the people had been determined, and fixed by multiplied instances of changing the order of succession, and attainting their sovereigns for treason against the rights of the people: and it is to Scotland and a Scotchman that the world is indebted for the establishment of the philosophical and logical principles of a free constitution both in theory and practice. George Buchanan, the greatest man of his age, as well as country, established, by *irrefragable arguments*, in his treatise or dialogue concerning the rights of the people of Scotland, the rights of all mankind; was the father of whiggery, and, what is much grander, the father of that system which will one day verify the prophecies of the Christian Scriptures, to the abasement of kings, and the destruction of priestcraft."

"The same sentiments," he goes on to add "kept up the sacred fire of freedom in France, in the midst of folly and despotism, till the progress of commerce, printing, philosophy and litera-

ture, opened the eyes of Frenchmen every where to discover that they were men, and ought to be citizens; that men were not born with gold chains about their necks, with stars upon their breasts, or coronets upon their heads: That it is the nature of kings, as hitherto constituted, to consider their interests as separate from the interests of their nations, and to watch continually like wolves or foxes for their prey, in order to destroy the citizens committed to their charge. That it is necessary therefore, that they should have only the power of obeying the laws made by the people, with that of doing good; but that the power of doing mischief, either by prerogative or *influence*, ought to be taken away. These were the principles of Fletcher—principles that seemed extravagant, disloyal, and impracticable in his days, but which are now acknowledged almost every where, except in Spain, Germany and England.”

From this busy period, till the meeting of the union parliament, Fletcher was uniform, and indefatigable in his parliamentary conduct, continually attentive to the rights of the people, and jealous, as every friend of his country ought to be, of their invasion by the king and his ministers; for it is as much of the nature of kings and ministers to invade and destroy the rights of the people, as it is of foxes and weasels to rattle a poultry yard, and destroy the poultry. All of them therefore ought to be muzzled.”

I will next shew you the public opinion, as narrated by Arthur Young, in his 18th and 19th Volumes of the annals of Agriculture, and surely none will suspect Arthur Young of prejudice against the present Government. The passages which I shall read you out of this book, are queries proposed to the public consideration, by Mr. Loft a member of the British Senate, together with the answers to the same.

“*Queries by Capel Loft, Esq; of Forston.*

“DEAR SIR,

“You have often, and with success, invited discussions in the Annals, on subjects immediately or consequentially affecting Agriculture. Will you approve the wish of proposing the following queries?

“1. What number of Agriculturists, in the several counties of

this island, may be computed to be without a vote in the choice of representatives?

" 2. What effect may this deficiency of representation be reasonably regarded as having, relative to agricultural interests?

" 3. What influence, in this respect, ought to be ascribed to the septennial duration of parliaments?

" 4. Are the interests of agriculture, at present, understood and regarded in parliament in proportion to their national importance?

" 5. It is probable that a reform in the election and duration of parliaments, or either, would cause them to be regarded?

" 6. What reform in the representation would be most conducive to this effect?

" 7. What mode and circumstances of election?

" 8. What duration of parliaments?

" 9. Is this a fit season for such reform?

" Those who are directly engaged in Agriculture, either as owners, occupiers, or husbandmen, form so great a part of the nation, that a view of the subject, as it respects them, will give a very general insight into its principles and tendency.

" I am persuaded you will not concur with some, who think this question cannot be discussed without disordering the peace of the nation, and endangering the existence of the constitution: on the contrary, I am certain there are those very friendly to both, who look to such an inquiry as the very means of preventing violent and precipitate measures, promoting confidence and tranquillity, and preserving the constitution."

Annals in Agriculture by Arthur Young.

" *Replies to Mr. Lofft's Queries.*

" Frickley near Doncaster,
September 8, 1792.

" Sir,

" Before any attempt to answer Mr. Lofft's very pertinent queries, it will be necessary to premise, that whatever apparent weight, by representation, the agriculturists, or any of the lower

orders of the state, may have in the legislature, is so utterly absorbed, and rendered void by the superior influence of the crown and peerage, in the House of Commons, that a calculation, even of the number of agriculturists, who actually have votes, must, by no means, be considered as a *datum* for an estimate of their real consequence in that house. While the crown and peerage act in concert, the government of this country is virtually an aristocracy; and I fear it is approaching fast to the situation predicted of it, by the celebrated Montesquieu, "*Il perira lorsque la puissance législative sera plus corrompue que l'exécutrice.*" *Esprit des Loix*, tom. i. p. 324. The lower orders, of course, lie at the mercy of the government, until the middle class of citizens shall assert its consequence, and obtain its natural level in the constitution; a circumstance as desirable and essential to the general interests of the nation at large, as it is the real and durable interests of the crown and peerage in particular. By the middle class of citizens, I mean those men possessed of property, from the smallest portion, to a moderate degree of affluence; and this class may be defined, as ending where the real utility and elegance of life give place to its fastidious pleasures, magnificence, and pageantry; which last are only within the reach of such as are aptly called overgrown fortunes. This middle class includes all the inferior gentry, the yeomanry, and farmers, with nearly the whole of the manufacturing and commercial men in the kingdom. This class, then, constitutes the body of the state, in the aggregate of its numbers and property; and if the crown and aristocracy, or head of the state, will obstinately persist in refusing to legislate, in union with the body, where will be the barrier of their defence, from the lowest members, in any extremity of danger and public convulsion, which the history of mankind, in all ages and nations, teaches us, are almost periodically to be expected, as the blazing eccentric comets of the political hemisphere? What an awful warning our neighbour France presents to the towering pride of the great men in the earth: the monarchy and nobility of that kingdom, the most powerful and numerous in the world, could not resist the shock of contending political elements, but have now fallen vic-

time to the want of union and concord with the middle class, or body of the state."

" Replies to Mr. Loft's Queries.

" 1. I think there are, at least, one million of agriculturists in this Island (including labourers, to whom, I presume, the query extends) without a vote in the choice of representatives: these, with their families, amount to more than five millions of souls, or above the one half of the whole population of the country.

" 2. This deficiency of representation, has certainly the effect of diminishing the consequence of that which, in common sense and policy, ought to be the first concern in the state; it follows then, that the real interests of the agriculture of the kingdom, are very little regarded or known in the house of commons.

" 3. As the house of commons is now constituted, it matters not to the agriculturists of this nation, whether the duration of parliaments be septennial or *septuagesimal*; perhaps it would be better if there were none at all.

" 4. The interests of agriculture are certainly not at all understood and regarded in parliament: witness the duration of tythes, the influence they and the manerial claims have in preventing the inclosures of commons, now utterly useless to the community, also the enormous expence and trouble of applications to parliament for that purpose: in addition to these discouragements, sufficient of themselves, to proscribe and destroy the plough, as if it were an implement of no use or value: has not an act been recently passed, by which the American farmer, with very trifling rents and taxes, and tythe free, is allowed a competition with the British farmer in his own markets, though he is crippled as above stated. Yet the British farmer is no advocate for a monopoly, and is ready to allow, that the people of England have a good right to be supplied with corn at a moderate price; to take off his shackles, and the British farmer will have the advantage in competition with any farmer upon earth, with a free corn trade. Perhaps the best answer to this query may be given, by stating these plain facts: An annual import of foreign grain to a vast amount:—Ten millions of acres of uncultivated land, waiting only for the *fiat* of the legislature,

to enable Ceres, with her golden harvests, to triumph over the chaotic reign of heath, and whins, and mutton-bones. If the senators of Great Britain did not love *racing* and *fox-hunting* better than the *plough*, could these things exist? I am here reminded of our good Editor's remarks on the poor peasants of Laincourt, who were actually inclosing and cultivating the Duke's wastes for their own use.—[See his travels in France, p. 266.]

" 5. It is very probable, that a prudent reform, in the election and duration of parliaments, would secure to the interests of agriculture their proper attention.

" 6. Let the house of commons consist of five hundred representatives for the *counties* of this island; the number for each county to be proportioned to its extent and population.

" 7. Let every parish, or small district in the county, send a deputy resident in such parish or small district, to the county town, the deputy to be chosen by *ballot*, in a meeting of the men of the parish or district, above the age of twenty-one years. No person to declare himself a candidate for this office, or to canvass, bribe, or otherwise endeavour to obtain votes, on pain of imprisonment, and confiscation of effects. The deputies of the parishes or districts, thus elected, to assemble as soon as possible, after their election at the county town, to proceed to the election of the representatives for their county in parliament. Let the deputies, when assembled, chuse a president, the president immediately nominating, with consent of the assembly, a committee of six deputies, who after such nomination shall, *out* of the place of assembly, make out a list of such of the said deputies of parishes, or districts, as they deem most proper to represent the county in parliament; the president to read over the list to the assembly, after which, each person on the list shall be severally voted for by *ballot*. On all occasions of equality of number, &c. &c.

" 8. The duration of parliaments to be triennial.

" 9. All seasons are fit for reform, and the present is particularly so; a wise man, in prosperity, will ever endeavour to secure himself against the return of adversity, in the best manner he is

able; and will not, by a dangerous security, delay a salutary design.

"It gives me pleasure to see that the editor of the annals of agriculture is not alarmed with the idea of introducing that terrible word, *reform*, the bugbear of weak and wicked minds. How intolerable it must be, to the spirit of a free and independent Englishman, to hear the quondam reformers of parliament, men now possessed of high offices and emoluments, make specious orations against reform. Such men, being parties in the case, and reaping to themselves the foul harvest of abuses, ought not, in common decency, to say one word; at least what they say ought no more to be attended to, by independent men, than as the speeches of those who they know are intending to *deceive* them, for their own profit: but the frequency of this circumstance must induce honest men to fear dangerous revolutions, far more than to hope for salutary reforms; for I believe the present masters of this country cannot even yet define Englishmen, as the tyrant of Rome once did the degenerate Romans, *homines ad servitudinem pavati*. Though I confess, the servile echoes to the late proclamation, apparently give the ministry some grounds for the assumption of it as a principle, that we are a people ready for slavery, and to be managed as such: yet ministry ought to know, that corporations are not towns, and that the great body of the people, are not in habits of corrupt and corrupting obligation to the numerous host of their creatures."

After such information, was the public not to be alarmed? and if things really are in such a state—if our constitution is really thus on the verge of destruction;—ought not the public to be roused by every means, to prevent its total annihilation? Convinced of this, could wise and prudent men withhold from stepping forth, to prevent the evils to be expected from such an event; if, as it is now apparent, the evil is unvoidable? and the more so, that the means which presented themselves as the most prudent for counteracting the calamities, if they should fall upon us, I mean the union of the people in heart and mind, were the only means of averting these calamities themselves; because the

any effectual means for restoring the constitution to its original principles by a substantial parliamentary reform.

Our opponents use the most strenuous exertions to misrepresent our designs and purposes; but have they proven that we have endeavoured to overturn the constitution. They have only given you assertions, and we are not bound to prove the contrary, nor need we. The contrary is apparent to every unprejudiced mind. It is because evils exist which tend to subvert the constitution, that we are associated to seek the removal of those evils, and to prevent their further progress in the undermining of the same; and it is proven to you, by the Prosecutor's own witnesses, that when Thomas Elder, Esq; and Harry Davidson, &c. and the multitude with swords and staves attending them, for I cannot call them magistrates, not being able to recognize any legal authority under which they acted; when they violently broke up the meetings of our Convention. When they came the first night to disperse us, we were actually beginning to consult about the execution of a former resolution, viz. about applying by petition to the House of Commons, for that reform which alone seemed to us adequate for the removal of those evils by which we apprehended our constitution endangered. We were interrupted in this legal and constitutional business that we had that night. We assembled the next evening out of the town, thus giving way to violence, and proving our disposition to peace; and that, as much as was consistent with duty, we would avoid giving offence, in proceeding upon the same business of an application to parliament. The Lord Advocate has avoided the taking any notice of this circumstance, though, if these are the minutes of our Convention, they must contain, first, an unanimous resolution to apply to the House of Commons by petition; next, a resolution to take under consideration the means of executing that resolution; and thirdly, a resolution to make this the subject of deliberation on that very evening, on which we happened to be dispersed, expecting that the previous matters would, by that evening, be all settled.

The Solicitor General and the Lord Advocate have exerted all their powers to impress you with the belief, that the Convention must have had a design to overturn our happy con-

situation. They said we were pursuing a thing inconsistent with the constitution, and which never came into the minds of those who framed the constitution. That we were seeking it on the plan of the French Convention, and that they must be right in the apprehension which they have formed, since we were at so great pains to keep our doings a secret.

As to the first of these averments; no person, in the least acquainted with the history of Britain, can deny the former existence of annual parliaments; and he must also acknowledge, that universal suffrage is the very principle of the constitution of the British House of Commons. But the fact is this, the British Constitution is neither more nor less, than the independent spirit of the nation, always disposed to trust too much to their rulers; but finding them, at any time, to have abused this confidence, always chastising them, and restricting their power where they found it dangerous, and encrease the controul of their own will, as the circumstance of the case required.

Much clamour has been made against the manner of our proceeding. The Lord Advocate sees distinctly the Revolution of France in every step. Circumstances the most trivial and accidental, arising from the wit and humour of a very few individuals, and which the Convention never designed to open a thought on, seems to have given the greatest alarm to those, who, misled by calumny, had previously been made to believe that the Friends of the People were in concert with the French. And, considering such calumny, how could we treat it by more marked contempt, than by holding up such empty bug-bears to the deluded, as nurses do to children to fright them to sleep.

The great burden of the third division of charges, and which have been magnified to the highest by his Lordship, is the supposed motion of a convention of emergency, and the appointment of a secret committee; but concerning both of which not a single thing is charged, as if done by me. I need not therefore exhaust your patience to hear me further on the subject; I shall only crave you attention to the evidence itself of the witnesses produced by the crown lawyers. To what does it amount, supposing these to be the true minutes of the proceedings of the Convention, though not its real minutes. It amounts to these

things only, namely, that the Convention dreading the introduction and passing of a quietism, or conventicle bill, which they cannot view in any other point of light but as the putting on of the grave-stone of the liberty of Britain, with the view of restoring; on a proper remonstrance against so grievous a measure, and of getting the same authenticated by the people's subscription: before the bill could pass through the house, agreed to have an interim meeting; and in order to avoid the tedious forms of calling such a meeting, prescribed by the standing rules of the Convention, namely the procuring the consent of ten towns, having societies of the Friends of the People, for an interim meeting of Convention, appointed the same to be called by a confidential committee, in a way which appears to them best calculated for a speedy assembling of the delegates. This confidential committee is named a secret committee, and what is the difference between the two terms, unless it be that the one is shorter. Is there any thing seditious in this? Is it sedition to complain and remonstrate against what we judge of the most dangerous tendency to the constitution? If not, what was there to be apprehended from calling a meeting to petition and remonstrate against it, in the way that seemed to the convention most adequate to the doing of this timeously.

The *bringing foreigners into the country* has ever been considered as the most dangerous to the liberties of this country. It has already been experienced in a way never to be forgotten; and the minister that would attempt it, would be a traitor to his country. I could not conceive a stronger reason for the people assembling to remonstrate; and I trust that, in the present crisis, the measure must appear, to every unprejudiced person, as the most dangerous that ever could be adopted, both against the liberties and peace of the country. And I trust that you, Gentlemen of the Jury, must approve of the honest patriotism of the British Convention, in providing for a due remonstrance against this and every such attempt.

Gentlemen of the Jury, after what I have already instructed relative to that part of the Indictment which charges me with contempt of authority, and resisting the sheriff and magistrates of Edinburgh, it does not appear to me as necessary to add any

thing. It is evidently proven, as I then observed, that the provost and magistrates, the proper judges of such an offence, had already taken cognizance of the whole of that matter, and had also advised me; and therefore, the Lord Advocate had no right whatever to institute a new suit in this case, any more than in the affair of the Dundee address.

I shall therefore now only request your serious attention to a few paragraphs respecting your own duty, which I shall read you from a very sensible book, though the same must already be well known to you: and then address you upon the whole in a few words.

"As Juries have ever been vested with such power by law, so, to exclude them from, or disqualify them of the same, were utterly to defeat the end of their institution. For then, if a person should be indicted for doing any common innocent act, if it be but clothed, and disguised, in the indictment, with the name of treason, or some other high crime, and proved, by witnesses, to have been done by him: the Jury, though satisfied in conscience, that the fact is not any such offence as it is called, yet because [according to this fond opinion] they have no power to judge of law, and the fact charged is fully proved, they shall, at this rate, be bound to find him guilty: And being so found, the judge may pronounce sentence against him, for he finds him a convicted traitor, &c. by his peers. And thus, as a certain physician boasted, that he had killed one of his patients with the best method in the world; so here should we have an innocent man hanged, drawn, and quartered, and all according to law.

"Suppose, for instance, a man should be indicted, For that he as a false traitor, not having the fear of God before his eyes, &c. did traitorously, presumptuously, against his allegiance, and with an intent to affront his majesty's person, and government, pass by such or such, a royal statute, or effigies, with his hat on his head, to the great contempt of his Majesty and his authority, the evil example of others, against the Peace, and his majesty's crown and dignity. Being hereupon arraigned, and having pleaded not guilty, suppose that sufficient evidence should swear the matter of fact laid in the indictment, viz. That he did pass by the statute, or picture, with his hat on; now imagine yourself one of

the jury that were sworn to try him ;—what would you do in the matter ?

" Nothing can be clearer than the duty of jurymen as defined by Magna Charta :—Wherever the statute law has not provided a specific punishment for any crime, it is the duty of the jury to determine the extent of the punishment :—The practice of leaving that to the Court is a desertion of their duty and repugnant to the principles of the Constitution.

" The words of Magna Charta are, That no Freeman shall be amerced for a small fault, but after the manner of his fault, and for a great fault after the greatness thereof ; saving to him his contenement, and a merchant, saving to him his merchandise ; and none of the said amerciaments shall be imposed, but by the oaths of honest and lawful men of the vicinage.—Thus our Forefathers not only prevented a judge from imposing the fine, but likewise tied up the hands of the jury from ruining a man by an excessive fine ;—in all cases reserving to the criminal the means of a future livelihood.

" But on the other side, when the matter in issue, in itself, and taken as a naked proposition, is of such a nature, as no action, indictment, or information will lie for it singly ; but it is worked up by special aggravations into matter of damage, or crime ; (as that it was done to scandalize the government, to raise sedition, to affront authority, or the like, or with such, or such, an evil intent) : If these aggravations, or some overt act to manifest such ill design, or intention, be not made out by evidence, then ought the jury to find the party, not guilty. For Example.

" If the jury shall honestly refuse to find the latter in cases where there is no direct proof of them, (*viz.* That such an act was done falsely, scandalously, maliciously, with an intent to raise sedition, defame the government, or the like,) their mouths are not to be stoppt, nor their consciences satisfied with the court's telling them—You have nothing to do with that ; it is only matter of form or matter of law ; you are only to examine of fact, whether he spoke such words, wrote, or sold, such a book, or the like. For now, if they should ignorantly take this for an answer, and bring in the prisoner guilty, though they mean and intend the

naked fact, or bare act only; yet the clerk recording it, demands a further confirmation, saying to them, thus; "Well then, you say *A. B.* is guilty of the trespass or misdemeanour, in manner and form, as he stands indicted; and so you say all?" To which the foreman answers for himself and his fellows, "Yea." Whereupon the verdict is drawn up—"The jurors do say upon their oaths that *A. B.* maliciously, in contempt of the king and government, with an intent to scandalize the administration of justice, and to bring the same into contempt, or to raise sedition, &c." (as the words before were laid); spake such words, published such a book, or did such an act, against the peace of our lord the king his crown and dignity.

"Thus a verdict, so called in law, *quasi veritatis*, because it ought to be the voice, or saying, of truth itself may become composed in its material part of falsehood. Thus twelve men ignorantly drop into a perjury. And will not every conscientious man tremble to pawn his soul under the sacred, and dreadful solemnity of an oath, to attest, and justify a lye upon record to all posterity? besides the wrong done to the prisoner, who thereby perhaps comes to be hanged, (and so the jury *in foro conscientie* are certainly guilty of this murder,) or at least by fine, or imprisonment, undone, with all his family, whose just curses will fall heavy on such unjust jurymen, and all their posterity, that against their oaths, and duty, occasioned their causeless misery. And is all this, think you, nothing but a matter of formality?"

"Much of the office of jurors, in order to their verdict, is Ministerial; as not withdrawing from their fellows after they are sworn; not receiving from either side evidence not given in court; not eating and drinking before their verdict; refusing to give a verdict, &c. wherein if they transgress, they may be fineable.

"To what end is the jury to be returned out of the vicinage (that is, the neighbourhood) whence the issue ariseth? to what end must hundredors be of the jury, whom the law supposeth to have nearer knowledge of the fact than those of the vicinage in general? to what end are they challenged so scrupulously to the array and poll? to what end must they have such a certain freehold, and be *probi, & legales, homines*, and not of affinity with

the parties concerned, &c. if after all this, they implicitly must give a verdict by the dictates, and authority of another man, under pain of fines, and imprisonment, when sworn to do it according to the best of their own knowledge?

Gentlemen of the Jury,

Having submitted already, some things that appeared to me to be altogether necessary for your consideration, and for my own exculpation, I shall now, in a very brief manner, state the heads of my defence. To these I would beg your particular attention, because, by bestowing this, you will be the better able to judge the cause. Remember you are called upon this day, seriously to decide concerning the conduct and fate of one of your fellow-men, who has been accused of a crime of a very heinous nature, no less than that of attempting to break the peace of society, and of being engaged in practices hostile to the constitution of this realm. You already know what has been urged against me; and you will not discharge your duty to God and your country you will not fulfil the sacred obligations which you have come under, if you do not hear and consider my defence, with an unbiassed mind, with a mind anxious to discover truth, and to render a just decision. But, gentlemen, I hope that you will not only judge my cause with that force of mind which resists prejudice; but, (in the confidence of my innocence, permit me to add,) I trust that you will shew that you possess that rectitude which places you superior to influence, that you possess that honesty and virtue of mind, which would make you, undismayed, withhold your consent, when the hand of power solicits your approbation.

I am charged with sedition, and in support of this allegation, it has been attempted to be proved, that I have done such and such acts, or have spoken or written such and such words, as amount to the crime. My entire innocence of this crime of sedition, I most solemnly avow; and it is your business then, when I deny the crime, to investigate whether and how the charge has been proved. My defence divides itself in two parts. You are to examine in the first place, whether the evidence of different kinds that has been brought before you, is sufficient to prove

the facts alledged, or to fix on me the writings, speeches, and acts, specified in your libel: And farther, being judges of law, as well as of fact, you are, in the second place, to determine whether these speeches, &c. even if they were proved to be mine, constitute in their author the crime of sedition.

First. With regard to the former of these points, the proof of the simple facts, I believe it is a maxim, not only altogether fair, but agreeable to the dictates of common sense, that when you are falsely accused of a foul crime, you may, and indeed, ought to employ every lawful expedient in your own defence. It is not, therefore, from any mean desertion of principles, it is not from any weak dread, that any part of my conduct about politics will not stand the strictest scrutiny, and may be tried by the severest rules, those rules which should ever regulate the conduct of every good man, and good citizen.—I say, it is not from the apprehension that any of my speeches, writings, or practices, are criminal, that I call upon you to investigate the nature and amount of the evidence adduced, in support of the several charges. Perhaps, some may think it was unnecessary to refuse, while I am conscious of my own integrity, that which I deem to be no crime; and may therefore judge it better that I should have admitted, that all such things have been done by me, as libelled, and should content myself with your opinion of their quality and import. This, however, I could not do, even supposing I had been inclined to it, for the purpose of saving you some trouble. While measures, the most insidious, and, but for some harmless difference in political opinions, the most unprovoked upon my part, are employed to circumvent and destroy me, and ruin my family. I am fully warranted to deny, on the whole, a charge so unjust. I do not beg then, gentlemen, that you would have the generosity, but I demand that you will do me the justice, to attend to every sentence of the libel; weigh the evidence brought in support of it, and deliberately judge, how far the allegations are truly proved to be matters of fact, or to have taken place simply as stated. Besides, you are to try the cause, and to decide concerning the truth, or falsehood of the charges, from the evidence set before you, and in no other way; and this, gentlemen, you must know to be your bounden

duty. With these general remarks, I leave you to determine as to the truth, or falsehood of the alledged facts.

Secondly. I will now beg your attention to the second part of my defence, in which I affirm that the import of all that has been alledged, or specified to have been said, or done by me, even though it were completely proved, will not amount to the crime of sedition, or to any crime whatever. Under this second, which, in this case, is by far the most important branch of your duty, you will examine the facts, or matters charged in the indictment, in two points of view. Gentlemen, in the first place, you are to weigh the import of the facts charged themselves; and in the second place, you are to consider with what intention they were done; for unless you can say from the proof adduced, that the alledged speeches, and other matters libelled on, are of a seditious import, and besides, that they proceeded from a wicked and felonious intention in me, the accused person, you cannot find me guilty of the crime charged in the indictment. With respect to the former of these, I need not tell you, that, if the words and actions ascribed to me can be found, on a fair interpretation, to import nothing wrong, there can evidently be no crime; for allowing that I had discovered the most perverted and wicked intention in the matter, yet, if all that I did was of no seditious import, or tendency; weakess, and folly, could only incur contempt, and be treated with derision. Now, I have no doubt, that I shall be able to satisfy you, and all candid persons, that every thing that is alledged to have been done by me, amounts to nothing criminal; to nothing more than what any Briton, with the most entire regard to the constitution of his country, has a full and undoubted right to do. Read, I beseech you, and take a *connected* view of the whole writings, speeches, and proceedings. referred to in the indictment, and you will then be able to judge of their import, much better than you can be from the partial extracts and mistaken details inserted in the libel.—What can you discover there inconsistent with the principles of the British constitution, or subversive of the authority of the British government? Is there ought else to be found there, but a sincere wish, and an ardent, but honest attempt to procure that relief from errors, or remain-

imperfections,—to effect those political improvements,—to spread that information,—and to enjoy that friendly and mutual intercourse and advice of our fellow citizens, that seem necessary, to improve the situation of society in Great Britain,—to give its constitution purity and perfection, and to procure to the inhabitants of these realms, greater security, satisfaction, and peace. Is it not the birth-right, the oldest and most invaluable privilege of every Briton, to possess the power of pointing out those errors, which he conceives to exist in the administration of government? If we discover wherein, according to our opinion, the happy constitution of this country, the constitution of the three estates of King, Lords, and Commons, may be improved;—if we suppose, with some reason, that the privileges of those, connected with one estate, may require to be extended and improved, and may readily be so, without, on the one hand, occasioning any detriment to the royal prerogative, or to the privileges of the members of the other estate, and without, on the other hand, introducing disorder, and anarchy among the inhabitants at large;—if, in the pursuit of these important objects, we reckon it improper to rely wholly on our own opinion, and wish therefore, to collect the sentiments of our fellow subjects; and if we think it impertinent to trouble the legislative body, who alone are competent to remove the errors, grant the reform, and confer the improvements sought after, with our solitary and inept application. I say, when with these views we are actuated, is there any thing wrong in honestly declaring and avowing our sentiments and openly consulting with our fellow citizens; and, especially when we do so in such a manner, as becomes the attentive and dutiful subjects of a regular government? Has not this, and even more than this, been done by the favourite minister of the day, and many of his adherents; they who now discover their hot-seal for the constitution, by watching, with such anxious concern and suspicion, the actions of others? But I need not insist, for it is known to every one what has been done, and what has been said by them. You know their sentiments were the same with ours. You know that the friends of reform in those less irritable times, met openly and without obstruction, and that their words and conduct, (not less expressive of their

sentiments, than our words and actions are of ours at present,) if not approved of by every one as proper, were not denied by any one, to be consistent with the spirit of the constitution, and the liberty of discussion permitted by our laws. With such upright views, to meet with undue opposition, contumely, and even oppression from our fellow subjects, who happen to differ from us in opinion, must surely be irksome, and calculated to exasperate. But we have hitherto behaved, and will always conduct ourselves with moderation and quietness. Though we have reason to believe, that the present opposition to our sentiments and conduct, is too pointed and too personal, to arise wholly from a simple difference of opinion; and, though we may suspect that some oppose us, because they derive advantages from the corruptions, which we desire to have removed, yet no bad treatment has ever yet seduced us from our principles, or provoked us to turbulence; and it has been our constant prayer to the God of Peace, that amidst the shakings of the nations, He would bless with unity and concord, the inhabitants of these islands. As we conceived the civil magistrates to be rash, and to act unconstitutionally, in dispersing and forbidding our meetings, our astonishment, at what we deemed an unmerited insult, and our desire to assert our privileges, will sufficiently account for our wishing to continue our meetings.—No rudeness however, was ever meant or shewn by us, as the witnesses for the crown have attested; and another public meeting, if it could not be procured in Edinburgh, but at the risk of public order and tranquillity in the smallest degree, would neither have been desired, nor attempted. You will see then, gentlemen, that there is nothing of a seditious or inflammatory tendency, to be inferred from our behaviour to the magistrates and sheriff, even though in our opinion, they unwarrantably and forcibly deprived us of our acknowledged privileges.—Had we given place to the arm of power, directed as it then was, even more slowly than we did, it would have been no more but a trifling misdemeanor, by no means an approach to sedition. It could only be said, that our submission was shy, for resistance we made none.

The interpretation which has been attempted to be put upon some of the inscriptions quoted in the libel, by the Lord Advo-

cate, is altogether forced and constrained. Nothing more was ever sought after by myself and the other Friends of the People, than the information of the country, and the acquisition of friends to reform, to be obtained in a manner consistent with the spirit of the constitution, and respectful to the legislature. If we wished for more, it was the steady adherence, and the amicable union of the friends of reform, and good concord and neighbourhood with every class of citizens, that we might give the necessary respectability to that cause, which we judged of prime advantage to the nation. Our solicitous perseverance in the pursuit of a constitutional reform, can never in fairness, be construed as an insult to the legislature of our country, far less can it be branded as an attempt to destroy its approved, and happy constitution.

The palpable misconstruction attempted to be put on our conduct, I mean on the conduct of the general society or collection of the delegates of the Friends of the People, called by way of distinction from the others, the British Convention, from certain words supposed to be similar to those used by the French having been accidentally employed, is hardly deserving of notice. The use of such terms may vex a weak ear, or enrage a peevish mind; but it will neither disgust nor alarm a sound and happy patriot, nor any true friend to the British constitution. The employment of these words arising wholly from accident, or from the whim of one or two individuals, might be defended. As they are sufficiently logical, not uncommon in our language, and not disrespectful to any thing British; but they are too inconsiderable to require any further apology.

" TAKE NOTICE OF THE NATURE OF THE CRIME CHARGED, AND WHAT LAW THE PROSECUTION IS GROUNDED UPON, AND DISTINGUISH THE SUPPOSED CRIMINAL FACT, THOUGH YOU MAY THINK THE SAME PROVED, FROM THE AGGRAVATING CIRCUMSTANCES, WHICH ARE NOT PROVED.

To conclude, allusions have been made to the affairs of France. But with these I have nothing to do. This much however, I will say, that excesses and sanguinary measures, make no part of my principles. And I trust that such measures, and such conduct as has been attributed unjustly to that people, will never, and far less at present, be adopted by British tribunals nor approved of by British subjects; and may He who hath the

hearts of all men in his hand, influence you to an unbiassed love of the truth, and direct you to return such a verdict, as will be consistent with the future peace and consolation of your own minds, such a verdict, as will accord with those principles of free enquiry and communication, which are natural to men, as rational and social beings, and which are recognized by the law and constitution of this country.

Permit me to remind you of the advice of a learned Judge.

"*I verily*" (saith he) "*had rather twenty evil doers should escape death through tenderness, or pity, than that one innocent man should be unjustly condemned.*"

I shall conclude with that excellent advice of my lord Coke, which he generally addresses to all judges, but may no less properly be applied to jurors:—

"Fear not to do right to all, and to deliver your verdicts justly according to the laws; for fear is nothing but a betraying of the succours that reason should afford: and if you shall sincerely execute justice, be assured of three things:

"1. Though some may malign you, yet God will give you his blessing.

"2. That though thereby you may offend great men, and favourites, yet you shall have the favourable kindness of the Almighty, and be his favourites.

"And lastly, that in so doing, against all scandalous complaints, and pragmatrical devices, against you, God will defend you as with a shield.—"For thou, Lord, wilt give a blessing unto the righteous, and with thy favourable kindness wilt thou defend him as with a shield." *Psalms* v. 15.

Lord Justice Clerk.

Gentlemen of the Jury, after so long a trial, and after hearing so much, I should not think it proper to detain you long; but, without running over and reciting the evidence, I would submit to your consideration, a few general observations, which may be of use in forming your opinion upon the case.

Gentlemen, the crime here charged is that of sedition, by the penal law of Scotland, it is a crime very different from the law of England; for it is not necessary to have any act of parliament for it. But Gentlemen, although there is no special act of par-

lament for it, it is very well known that it is a crime of a high nature, and of a dangerous tendency. I take the crime of sedition, to be *violating the peace and order of society*; and, it is attended with different degrees of aggravation, according to what is the object of it. When sedition has a tendency, to overturn the constitution of this country; it borders upon high treason; and if it goes that length, it loses the name of sedition, and is buried under the greater crime of high treason; and a very little more than is contained in this indictment, would have made it the crime of high treason. The crime charged is that of sedition, and the public prosecutor, has in the minor proposition, enumerated a variety of circumstances from which he infers this crime of sedition, and the conclusion of the libel, is that these facts or part thereof, being found proved by the verdict of an assize, he shall be punished with the pains of law.

Gentlemen, although the public Prosecutor, in justice to the party, that he might see his way clear, to make his defence, has enumerated a variety of circumstances, from which he infers, that this pannel was guilty of the crime of sedition. In order to procure a verdict, finding him guilty of these crimes, it is not necessary that all these facts should be proved, but the question you are to try, is whether he has been guilty, art or part, whether such facts and circumstances, as are stated, are not sufficient to convince you, that the pannel has been guilty of the crime of sedition; if you upon the whole are satisfied, that what is proved against him, does not amount to the crime of sedition; or is not sufficient to establish his guilt, you will find him not guilty, or the libel not proved, but if you think it is sufficient, then you will find the opposite verdict that he is guilty, or that the libel is proved.

Gentlemen, in considering this case, one thing occurs to me, and that is the conjuncture under which these facts are alledged; it was during the time when this nation is engaged in a bloody war, with a neighbouring nation, consisting of millions of the most profligate monsters that ever disgraced humanity, justice will never enter into their ideas, but they swallow up all before them, and I say Gentlemen, that the greatest union in this nation, is necessary in these circumstances, to support us under this

war, and therefore, Gentlemen, supposing that in short this nation, has been feeling some grievances, from any imperfection attending the constitution, I say, under these circumstances, this is not the time to apply for relief, and I appeal to your own feelings, and your good sense, if it would not be brought forward better at any other time, and that we should employ all our force to get rid of that foreign enemy upon which the safety and the happiness of the country does in a great measure depend.

Gentlemen, any person who had never heard of the name of Great Britain, and knew nothing of its constitution. If the proceedings of these Friends of the People and this Convention, and their publications were put into his hands, I think the conclusion that would be naturally drawn by such a person would be, that it was a nation, the most wretched under the sun, that we were living under the most despotic government upon the face of the earth, and were the most unhappy of mankind; that I think would be the idea of a man who knew nothing of this country, upon reading the publications of this Convention. But Gentlemen, I appeal to your own feelings and your own knowledge, how much it is the reverse of that. I believe every one must admit, that of all the nations under the sun, Great Britain is the happiest; and that under all the imperfections that may attend their constitution, it is the most complete system of government, that ever existed upon the face of this earth, with all its imperfections. I am sure, Gentlemen, you must all be sensible that you enjoy your lives and your properties, and every thing that is dear to you in perfect security. every man is certain that he will not be deprived of any thing that belongs to him, and there is no man, let him be as great a grumbletonian as he will, if he is asked where he is hurt by the imperfections of the constitution, he cannot tell you, but on the contrary that he is living happily under it. Gentlemen, when that is the case, what construction must you put upon the proceedings of a society, who represent this country as on the very brink of destruction; I submit to you whether that is the work of the people, who have a real regard for society, and if you are of opinion, that these meetings are of a seditious nature and of a seditious tendency; when the question comes home to the pannel at the bar, you

must find him guilty; for Gentlemen, I must observe to you, that it is a rule in law, and a rule in good sense, that if a meeting is illegal, all the members of that meeting are liable for every thing illegal that is done at that meeting, the whole meeting are understood to be guilty, art and part in the crime that is committed, and they are all and each of them amenable to the laws of their country for what they have done. And at common law, even in the commission of the crime of murder, and robbery, some persons may be more active than others, but they are all guilty art and part, and all equally liable to the punishment of the law; and those who have been more cruel than the rest may have a greater sting in their own minds, but, in the eye of the law, they are all guilty art and part. Then, Gentlemen, you are to consider how far you can think Mr. Skirving innocent, when it is proved to you, by a number of witnesses, some of their own Convention, and what is best of all is his own declaration, that he himself was not only present at all their meetings, but was secretary of the society, entrusted with every thing done by them, and according to the proof this day laid before you, when the officers of the law went, they seized all the papers and minutes of their proceedings. If you are of opinion that those meetings are of a seditious nature, how is it possible to find this man innocent, the whole meeting being guilty art and part, and he being secretary, is the most active man, if one man can be more guilty than another, it is that man now standing at your bar.

Gentlemen, that is the general nature of the cause. I shall not go over the particulars, but there is one thing I must take notice of just at the very first.—Fyfe Palmer's publication, of all that ever I read, is of the most seditious tendency, and a more wicked publication it was not possible for human invention to devise, and accordingly Palmer was very justly indicted for that composition, and he was found guilty at the last circuit at Perth, by a most respectable Jury, in consequence of which he is condemned to banishment, by transportation. Gentlemen, it is clearly proved and acknowledged by Skirving himself, that he was active in circulating that libel, and there cannot be a doubt that if a man circulates seditious libels, he is equally guilty with

the man who composes it; if a man composes a seditious libel, and it goes no farther, society is not hurt by it, but the man who publishes it, does more mischief than the man who composes it. To be sure Palmer was justly found guilty of sedition, because he allowed it to go out to the world, and I say Skirving is equally guilty of the pains of law with Palmer and it would be very difficult for me to conceive it possible, that this man, now at the bar, can be found not guilty.

Gentlemen, I will not run through all the other evidence, for indeed almost every article of this libel is proved, but the next article is the hand bill; it is true he does not seem to be the author of that hand bill, but his name is at it, many thousands were printed and circulated, sent to the Convention, and he does not find fault with it; that is acquiescing in the thing, and by not opposing his name at that writing, he renders himself art and part in that publication, which publication contains matter in itself, I think of a very criminal nature. I own there is one part of it, the last paragraph that appeared to me to be of a very criminal nature indeed, and it is set forth in the indictment. "Had certain Gentlemen countenanced this association last year, instead of pledging their lives and and fortunes to prompt a corrupt and ambitious Ministry to engage in a war, which could only bring guilt and ruin on the nation, we might have been still enjoying uncommon prosperity, and a happy understanding amongst ourselves as brethren: And now, if they will not manfully retract that very impolitic step, and immediately join their influence to the only measure which can prevent further calamity, if not anarchy and ruin, their pledge may be forfeited, and the Friends of the People will be blameless." What is the construction of that language? Why certainly that the people would be bound to rise, and that they were at liberty to destroy such tyrants; and that their lives and property would be forfeited, and these Friends of the People would do no harm in the cause of liberty, by cutting their throats, that is the plain English of that paragraph, I can see no other.

Gentlemen, the other particulars are all clearly proved, that they held further meetings in defiance of the orders of the magistrates. Gentlemen, they assumed that they wanted merely to

obtain a reform in parliament. It is certainly a very lawful thing to apply to parliament, and God forbid it should ever be thought unconstitutional; but it was not a reform in parliament that was their object, but a reform to be brought about by force of arms of their own procuring; for they could not mean to obtain any redress from parliament, when they called themselves the British Convention of the delegates of the people, associated to obtain Universal Suffrage and Annual Parliaments. It was impossible they could ever obtain from parliament Universal Suffrage, and for a very good reason, it is a thing that cannot exist; a nation could not subsist under such a government. And therefore, it was very plain what they meant, they could not mean to get redress from parliament, because they described parliament as corrupted, and the nation upon the brink of ruin,—“Is not every
 “new day adding a new link to your chains? Is not the execu-
 “tive branch daily seizing new, unprecedented, and unwarrant-
 “able powers? Has not the House of Commons (your only secu-
 “rity from the evils of tyranny and aristocracy) joined the con-
 “lition against you? Is the election of its members either fair,
 “free, or frequent? Is not its independence gone, while it is made
 “up of pensioners and placemen.”—Now, here I appeal to your-
 selves, whether you don't see that it was not a reform in parliament that was their object, but that they might rouse the common people, whose interest it was to join them to overturn the government. And indeed, Gentleman, the name of citizen and the honours of the sitting; and all the rest of it shews, that in short, they went upon the model of France, adopting it as their pattern, and they thought, that now, as the French had got into their hands the very dregs of the people, say they, why may we not by the same means get into our hands the same description of people in this country; and you see they had a committee of secrecy, and also, a convention of emergency. Gentlemen, can you not apply to parliament for a redress of the grievances that you may labour under: it is an absurdity in itself, that there should be any secrecy in that. They were about to establish a committee of secrecy, and a convention of emergency, which had a tendency to raise the people in arms.

○ Gentlemen, I have laid before you what occurs to me, and I

leave it to yourselves if you think that the commentary I have given is the proper one, and that the Pannel is guilty of the crime charged, which is sedition, you will find the libel proved. If you are of the contrary opinion you will find the libel not proved. I believe there is no crime known amongst men that has a worse tendency, especially when it goes to overturn the established constitution of the country.

Gentlemen, you will attend here to-morrow at two, o'clock, to give in your verdict.

Mr. Skirving, my lord, may I not be admitted to bail.

Lord Justice Clerk. No; you cannot, it is contrary to a rule of court.

Tuesday, Jan. 7. 1794. 5 o'Clock.

The names of the Jury called over.

Lord Justice Clerk. Gentlemen who is your Chancellor.

One of the Jury. Alexander M'Kenzie, and David Anderson Clerk.

V E R D I C T.

EDINBURGH, January 7. 1794.

The above Assize having inclosed, made choice of the said Alexander M'Kenzie to be their Chancellor, and the said David Anderson to be their Clerk; and having considered the criminal libel raised and pursued at the instance of his Majesty's Advocate, for his Majesty's interest, against William Skirving, Pannel, the interlocutor of relevancy, pronounced thereon by the Court, the evidence adduced in proof of the libel, and the evidence in exculpation; they are all, in one voice, finding the Pannel William Skirving GUILTY of the crimes libelled: In witness thereof their said Chancellor and Clerk have subscribed these presents, consisting of this and the preceeding page, in their names and by their appointment, place and date foresaid.

(Signed) ALEXANDER M'KENZIE, Chan.

DAVID ANDERSON, Clerk.

Lord Justice Clerk. Gentlemen, you have returned a very proper verdict, and I am sure you are entitled to the thanks of your country for the attention you have paid to this trial.

Mr. Skirving. My Lords, owing to an accident, I have been

deprived of very considerable assistance, namely, the advice of counsel from London voluntarily transmitted to me. However, there is no help for it now; but there is one part of the advice of counsel, which may merit the attention, though not perhaps very orderly as to time, but if your Lordship will allow me, I will state it. Upon the first page of the Indictment it is said, "Whereas by the law of this, and every other well governed realm, "*Sedition*" is a crime of a heinous nature and severely punishable." The observation of the counsel at London, is "it will be necessary to ascertain, connectly, the definition of the crime of sedition." *Erskine, Inst.* 8vo. *Edit.* p. 488, "says sedition consists in the raising of commotions or disturbances in a state." He indeed adds that it is either real or *verbal*, but sedition can only be that offence whereby an actual breach of the peace is committed *in order to prevent the due course of law*, and though words of a seditious tendency may be furnished, yet where actual sedition is charged, as in this case, words or libels alone, will not, without a real act of sedition, be sufficient to maintain the Indictment.

The crime charged is sedition, and the averment is that the said William Skirving is guilty actor or art and part, that is, in the phraseology of the Scots Law, that he is either principal or accessory. But as this is stated in the disjunctive, it does not appear with certainty, whether he is charged as the principal or as accessory. He cannot be both principal and accessory, nor can he be indicted for both offences—~~therefore~~ the whole is void.

"This is an objection which will apply in arrest of judgment, therefore reserve it till after the verdict."

Now, my Lord, if there is any thing in that opinion, I plead it in arrest of judgment, and as it is a thing not common in this court, I appeal to your Lordships' candour, that if there is any justice to be obtained upon that point, I may obtain it.

Mr. Solicitor General. As to the nature of sedition, it was fully discussed in argument before your Lordships yesterday. With respect to this learned opinion of counsel, he may be a very good English Lawyer, and very eminent in his profession, but is perfectly ignorant of the Law of Scotland; because as that is stated, it would be impossible for any person to be convicted of

any crime, because I never saw an indictment but what charged a defendant with being guilty actor, or art and part thereof.

Lord Justice Clerk. If there had been any thing wrong in the proceedings, the court would have taken it into consideration.

Mr. Skirving. After all that was stated yesterday as to sedition, I could get no satisfaction upon it.

Lord Esqgrove. My Lords, the Pannel is charged in this indictment with sedition which has been proved in a very distinct manner; and, my Lords, I am always very sorry to pronounce sentence upon any of my fellow subjects for sedition, of the heinousness of which I had flattered myself, from two late instances, every man was so thoroughly sensible that I should not have occasion again to sit upon a trial of that kind. My Lords, I still less expected to sit again upon the offence here charged. I mean that of attempting to imitate the example of the late revolution in a neighbouring country, in which country now exists every thing that is horrible in nature—blood-shed—massacre—murder; the throwing off the belief of a God, and abolishing the Christian religion. I should have thought all this a reasonable cause, why people that meant well, and were only wishing to amend our government, would have abhorred the idea of coinciding with them, in what has happened there. But my Lords, from this libel which is now found proved by the jury of this country, and a most respectable one; it seems that these have been unfortunately persons so disposed, so misguided, from motives, I hope good, as to adopt the innovation of the forms of procedure of that country, in their meetings, and which must strike every dispassionate mind with horror. My Lords, it matters not what my opinion, or that of any of us, is on the nature of this offence; or what is the nature of his guilt, independent of what has passed in this Court; for suppose, if I had been able to have attended all the trial, which my state of health could not permit; but if I had, and it had been my private opinion, that this man acted from the best of motives, that the evidence against him was not complete, and that he ought to have been acquitted; all would have been unavoidable, in the situation in which I stand now; because, my Lords, this libel has been found proven, and this Pannel has been found guilty in general by a respectable Jury of

his country, and therefore I am bound to believe that he is guilty of the crime of sedition as laid in the major proposition, and of one and all the facts charged against him in the minor proposition; he is found guilty therefore, art and part in the circulating and publishing of that shocking paper, which was the subject of the trial of Palmer at Perth, and which is engrossed in this indictment. The Gentleman has been advised, he says, that a charge of being guilty art and part is an irrelevant charge. My Lord it was well said by the counsel for the crown, that that counsel, however great and eminent he might be in his profession of the Laws of England, is totally ignorant of the Laws of Scotland. And if he had been a wise man he would not have meddled in what he did not understand. The Gentleman spoke of acts of parliament; he does not know that there is a positive act of parliament that the charge of art and part shall be deemed sufficient. However, this Pannel, and I am very sorry for it, is found guilty art and part of the crime of sedition as stated in this indictment, and the Court have recorded the verdict. My Lords, he is found guilty art and part of the first branch of it, which is for circulating the seditious paper of Palmer. My Lords, he is further found guilty art and part of the second part of the libel, to wit the advertisement which is styled a seditious and inflammatory hand-bill, bearing date, Masons Lodge, Black-Friars Wynd, 4th October, 1793, and bearing the subscription of William Skirving as the author by order of the committee.

My Lord, this is a second paper, in which he is concerned; the purpose of which is charged in this indictment, as tending to rouse the people to unite together, to incite them to acts of violence, and the words of it calling upon the rabble to remember their patriotic ancestors, who shed their blood in the cause of freedom. I don't know what knowledge this pannel has of the pedigree of the ancestors of the rabble, who shed their blood. I think it is very plain that if the rabble are to assist in the reformation of this country, the shedding of blood should have been omitted, unless it was to tell them that that was the way of reform, by shedding of blood. "Had certain Gentlemen countenanced this association last year, instead of pledging their lives and fortunes to prompt a corrupt and ambitious Ministry

" to engage in a war, which could only bring guilt and ruin on the
 " nation, we might have been still enjoying uncommon prosperi-
 " ty, and a happy understanding amongst ourselves as brethren :
 " And now, if they will not manfully retract that very impoli-
 " tic step, and immediately join their influence to the only mea-
 " sure which can prevent further calamity if not anarchy and
 " ruin, their pledge may be forfeited, and the Friends of the
 " People will be blameless." Telling them that their lives and
 fortunes would be forfeited, unless they did as that advertise-
 ment required them. In the next page it goes on, as to the Bri-
 tish Convention, the tendency of it, the maxims they held, and
 the purposes they had in view, in all of which this is found, that
 Mr. Skirving was an active member, making motions, and con-
 curring in the resolutions that were there made.

A further part of the charge is, for refusing to comply with
 the authority of the civil magistrates, when they were about to
 dismiss these meetings, which no person wishing well to the
 country could approve of. And then he is found guilty of this
 last advertisement, in which he speaks of the delegates, he says,
 " your delegates having a permanent existence, your several so-
 " cieties will be multiplied greatly, and means will be used to
 " lay the business before each society individually, by printed
 " bulletins."

My Lord, these are the chief of the charges stated in this In-
 dictment, and whatever my private opinion of the evidence may
 be, I dare say it was perfectly sufficient ; but even if it was de-
 fective I am bound by the verdict of this Jury, which alone is
 now before me, and they have found unanimously with one voice,
 that this man is guilty in general, that he is guilty of the whole
 Indictment.

My Lords, that being the case, as a Judge of this Court, I
 cannot take into consideration any feelings of compassion for this
 Pannel. I am bound to follow up this verdict of the country
 with the sentence which the law requires of me.

My Lords, I need not say any thing with regard to the per-
 nicious consequences of the crime of sedition, which certainly
 the different acts charged in the Indictment amounts to ; it af-
 fects every thing that is dear to a man, his life, his property,

his liberty, but were I doubtful about it in my own mind, I should be satisfied with the judgment pronounced by this supreme Court, upon another unfortunate gentleman, Mr. Muir. My situation of health did not permit me to be present at any part of it; but your Lordship, upon his being found guilty, did pronounce a sentence of banishment to the plantations, by transportation for fourteen years against that gentleman; and I cannot, from the whole tenor of this Indictment, find that the crime of which this man is convicted, is one whit less, and therefore I think the court is called upon to place him under the same circumstances.

Lord Swinton. My Lords, in this case the Jury have found the Fannel guilty, not only of sedition in general; but of all the particular charges that are contained in that Indictment. It now comes to us to declare, and to inflict the punishment of the Law upon him. Your Lordship has heard an opinion upon that point very full and very solemn, which renders it perfectly unnecessary for me to take up much of your Lordship's time. I am afraid, my Lord, that this unfortunate man, and many others do mistake the nature of sedition, and he called upon the court just now to explain what it is. My Lord, I did yesterday, and shall again give my opinion of what it is; it does not consist merely in actual commotions and rebellion against the laws of the country, but it consists in every attempt to excite by inflammatory discourses and illegal associations; I say, by these means, to excite the people to outrage and violence against the constitution to hurt the public peace.

My Lord, the offence of the crime lies in endeavouring to excite to violence. My Lord, if there is no intention to excite the people to violence, many of these meetings may be innocent, many of them ridiculous. In this case they wished for universal suffrage and annual parliaments. One of these is a most ridiculous and absurd doctrine; universal suffrage, nothing can be so absurd, annual parliaments, or a shorter duration of parliaments may be matter of argument; but what I mean is by inflammatory discourses and illegal meetings, endeavouring to excite the people to force and violence—say they, we only meant to petition lawfully: petitioning parliament is most lawful, and

I should be sorry that any person should think it unlawful; but in what manner is it to be done? My Lord, is it to be done by numbers and by force? In that case it is war, and if a petition is suffered to be offered in that manner, the king may leave his throne, the peers their benches, and the House of Commons their seats for they exist no more. My Lord, if any violence is offered, it ceases to be a petition—if a poor person comes and asks charity it is a petition, but if he uses a pistol to enforce it, it is no longer a petition, it is a robbery. The crime of sedition may be committed by illegal associations making use of French modes and terms.

My Lord, the question then comes to be what punishment the crime deserves. I conceive nothing less than that which was inflicted upon Mr. Muir. I don't know but the crime deserves more, but we cannot do less, than punish the same crime by inflicting the same punishment. I have heard that this Pannel has a great family, and sorry I am for it; but the cases of Messrs. Muir and Fyfe Palmer should have led him to be industrious for his family, followed an honest occupation, and not have meddled with illegal associations. I think the crime deserves more, but taking every thing into consideration, with the circumstances of his family, I prefer the opinion your Lordship has given.

Lord Dunfermline. My lords, this pannel has been found guilty by a verdict of his country, of a crime of a very different nature, and of a more dangerous tendency than those common crimes which occur, and which are the daily subjects of trials in this court. My lord, it is the crime of sedition,—It has been proved, that these persons met for the purpose of subverting and altering the established constitution of this country, under the pretence indeed, of reform. but I say, really to subvert the constitution of the country—and, my lord, from some other circumstances, which came out yesterday, in the evening, and upon which the jury found him guilty, I confess I shudder to think, of the horror that in certain events, might have arisen from the train which this man and his accomplices laid, in different parts of this country.—Thank God they are disappointed,—Thank God we are still in possession of laws to protect the constitution, and and to establish the security of the subjects of it.

My lord, it is our duty, called upon as we are, it is our duty to execute the laws, and whatever our feelings may be for this unhappy man, we are not at liberty to indulge them at the expense of all that is sacred and dear to us. My lord, I said that this was an unhappy man, and I think I can say so, because no man ever had stronger examples before his eyes of the danger he was in, but in place of having the effect it should have had, it has had no effect at all.

My lords, it is always painful to inflict punishment, but my lords, it is also painful that men will commit crimes, and they must be punished, or society would never be safe. It is unnecessary for me to add any thing to the opinions already given. I think the punishment suggested by your lordship, is the moderate and proper punishment, and I most heartily concur with your lordship.

Lord Abercrombie. My lord, this pannel was secretary to the society assuming to themselves the name of the British Convention.—My lord, the object which these societies held forth to the public at first was, a general reform without specifying the nature or the extent of it; and, my lord, I am disposed to believe, that at that period, there were many well disposed persons, in every part of the kingdom, who joined these societies, without any wicked purpose, believing that their sole object was to render our constitution excellent, as it is still more perfect, without entertaining the most distant idea of overturning that constitution. My lord, whatever the views of these persons,—of these deluded persons may be, every thinking man,—every man of common discernment might see what was the object of the leaders of this society, and that under the pretext of reforming the constitution, they intended to overthrow it. My lord, about the beginning of the year 1793, it was well and justly observed, by a person who, I fear, had but too good reason to know the real views of these societies, that if the friends of freedom as he termed them, could obtain the reform in parliament, which they were then demanding, that, my lord, it would immediately have been followed by the abolition of monarchy, and the total overthrow of our constitution. My lord, after they had been dispersed by the magistrates, they had a meeting at the Cook-

pit, and, my lord, they ventured to declare to the public at large, and to their fellow citizens, that their sole and only object is, to overturn the present happy constitution, which we now enjoy;—the name which they assumed to themselves, denotes in the clearest manner, that that was their sole object, for they assumed the name of the British Convention of the delegates of the people, associated to obtain universal suffrage, and annual parliaments. It was well observed, yesterday, that universal suffrage, at no period, had ever obtained in any part of the constitution, and never could in any state whatever, except one, which is France, where it certainly exists at present in its fullest extent, and from the effects it has produced there, sure I am, that we have no reason to try the experiment; we have no reason to change the most perfect system that I believe ever prevailed in any nation in the world, for that system of despotism under which that nation lies.

My lord, such being the object they had in view, we must all concur in that opinion which your lordships have given;—and, my lord, that being the case, I must also concur with your lordships in regard to the punishment. I think that no man,—I think the pannel himself, cannot think that that punishment is too severe,—he must recollect and must know, that his crime is upon the verge of high treason. He was their secretary,—he was one of the secret committee, whose duty it was in this convention, to name a place for holding a committee of emergency in the event of an invasion from France.

My lord, after this, no man can think the punishment too severe. My lord, a very little more would have been necessary for the public prosecutor to have charged him with high treason. As it is, I must concur in the opinion which your lordships have given.

Lord Justice Clerk. My lords, I feel very much for the situation of the pannel, but my lords, we must not allow our feelings to interfere with the discharging of our duty, we must feel for the welfare of the country, and what would have been the situation of the country, if they had executed the scheme that they were meditating. My lords, I could have wished, and it would have made me happy, if he could have given a proper vindication of

his conduct, so as to have got an acquittal from the crimes with which he is charged; and I should be very sorry to think, that he suffers for want of the advice of counsel; but my lords, it gives me a great deal of satisfaction, that after the proof that was heard yesterday the ingenuity of no counsel, Scotch or English, could have been able to have satisfied an intelligent jury, that this man was innocent of the offence charged against him. My lords, if he suffers for the want of counsel, he must, I am sure, impute that to himself, for he must know, that a man arraigned at the bar of this court, whether he has money to pay counsel, or whether he has not, he need not go without, for this court would appoint him one; but it is very odd, that he should in place of applying to counsel here for advice, go to an English counsel, whose place it is not to know the law of Scotland, and who, certainly, had very little business with it.—But he reads something to teach us a little of the English law, but they certainly have no business with Scotch law, and he being to be tried in a court of Scotland by the laws of Scotland, ought not to have meddled in it; and I am sure, however able an English lawyer he may be, he knows nothing of the law of this country, to say that a man cannot be charged as being guilty, actor, or art and part thereof. Nothing but a total ignorance of the criminal law of this country, could have caused such an observation. My brother took notice of an Act made in the reign of James vi. saying, “that if art and part is libelled, the generality of the indictment shall be no exception.” Before that act, the prosecutor was not allowed to prove any facts or circumstances but what were set forth in the indictment, and this was attended with very great inconveniences, because in the course of evidence very often facts and circumstances came out, which were even stronger than those libelled. The legislature of this country saw the inconvenience, and then it was enacted in James vi. “That the generality of the indictment should be no exception;” so that it is competent to the public Prosecutor to prove facts and circumstances not mentioned at all in the libel. As to the other part of the objection stated by Mr. Skirving, as to the nature of the crime of *sedition*, I think we should not be deservng of the trust reposed in us, if we had this day to seek into the nature of that crime, when we have within these

two months for the same crime, passed sentence of transportation against two persons, Mr. Muir and Mr. Palmer. It is paying a very bad compliment to the court, after that, that we should now be told, we don't know what we are doing, and that we are yet to learn what sedition is. I thought we were fully apprized of what sedition was, even before the case of Muir, which was followed by that of Palmer. And, I will say, that that opinion that the pannel just now read, is absurd in itself, because if acts of violence must be committed to make it sedition, it is impossible that the crime of sedition can be committed at all, because it then ceases to be sedition, it becomes high treason; and if any act of violence had followed these meetings, the consequence would have been thus, that gentleman would have stood there tried for his life, and the forfeiture of his Estate, Goods and Chattels, would have followed.

My lords, as to the punishment to be inflicted, as I have always considered sedition as the most dangerous crime that can be committed, I think we cannot discharge our duty to the country, unless we inflict for that crime a severe punishment. Mr. Muir was transported for fourteen years, and the only hesitation in that case was whether it should be limited to fourteen years, or not. I have no inclination to go beyond in this case, but I think it is impossible we can, consistently with the justice of the country, pronounce a less sentence upon this pannel, than we did upon Mr. Muir.

My lords, it is an aggravation of his crime, that with the example of Muir and Palmer before him. If he had before that thought his conduct was innocent, and did not deserve a high punishment. He was told by the judges of this supreme court in that case, the nature of the offence; and any prudent man would have taken care to have regulated his conduct accordingly, and given over those rebellious practices; but in place of that, he continues their secretary, and attends the British Convention. And my lords, I do conceive that if any more trials of this kind should happen in time coming, it is still a further aggravation, that they have had not only the example of Muir and Palmer, but of this man also, and my opinion is, that we cannot do less than transport him for fourteen years, and therefore I pronounce

the same interlocutory that was pronounced upon Muir and Palmer in the same form of words.

THE SENTENCE.

The lord justice clerk, and lords commissioners of the judiciary, having considered the foregoing verdict, whereby the assize, all in one voice, Find the pannel GUILTY of the crimes libelled: The said lords, in respect of the said verdict, in terms of an act passed in the 23th year of his present majesty, entitled, " An act for the more effectual transportation of felons " and other offenders, in that part of Great Britain called Scotland ;" *Ordain and adjudge* that the said William Skirving be *transported beyond seas*, to such place as his majesty, with the advice of his privy-council, shall declare and appoint, and that for the space of *fourteen years* from this date, with certification to him, if, after being so transported, he shall return to, and be found at large, within any part of Great Britain, during the said fourteen years, without some lawful cause, and be thereby lawfully convicted, he shall suffer death as in cases of felony, without benefit of clergy by the law of England: And ordains the said William Skirving, to be carried back to the Tolbooth of Edinburgh, therein to be detained till he is delivered over for being so transported, for which this shall be to all concerned, a sufficient warrant,

(Signed) ROBERT M'QUEEN.

Mr. Skirving. Conscious of innocence, my lords, and that I am not guilty of the crimes laid to my charge, this sentence can only affect me as the sentence of man.—It is long since I laid aside the fear of man as my rule,—I shall never walk by it.—And, my lords, I could not be ignorant of this sentence, because I knew it long before this ;—and I had a letter from London, this very morning, informing me that such a sentence was to take place!

Lord Justice Clerk. You heard that from the counsel of London too I suppose.

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Mr. Skirving. No, I told your lordships that was a voluntary thing, I consulted no counsel.—

My lords, I know that what has been done these two days will be rejudged ;—that is my comfort, and all my hope,

